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ABSTRACT

The Senate Select Committee on Indian Affairs met to receive testimony on a bill (S. 1298) to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian juveniles and a related bill (S. 1621) concerned with eligibility for attending Bureau of Indian Affairs (BIA) schools. Most testimony concerned S. 1298, which addresses the problem of alcohol and drug abuse among Indian youth by requiring: more coordination of information and services between the BIA and the Indian Health Service (IHS); training of all personnel working directly with Indian youth; a more comprehensive education program in BIA schools; alternative placements for children arrested for drug and alcohol related offenses; and more comprehensive alcohol and drug abuse treatment centers that include detoxification facilities, counseling services, and follow-up care. This report includes the texts of the bills, transcription of the hearing proceedings, and numerous prepared statements from government agencies and tribal organizations. Statements from the BIA and IHS support the goals of S. 1298 but do not support the bill as a means to achieve those goals. Statements by tribal representatives are largely supportive of the bill, but include suggestions for insuring enforcement funding, local authority, etc. (JHZ)

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S. Hrg. 99-286

INDIAN JUVENILE ALCOHOLISM AND ELIGIBILITY FOR BIA SCHOOLS

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HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 1298

TO COORDINATE AND EXPAND SERVICES FOR THE PREVENTION, IDENTIFICATION, AND TREATMENT OF ALCOHOL AND DRUG ABUSE AMONG INDIAN YOUTH, AND FOR OTHER PURPOSES

AND

S. 1621

TO AMEND TITLE 25, UNITED STATES CODE, RELATING TO INDIAN EDUCATION PROGRAMS, AND FOR OTHER PURPOSES

SEPTEMBER 18, 1985
WASHINGTON, DC

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INDIAN JUVENILE ALCOHOLISM AND ELIGIBILITY FOR BIA SCHOOLS

WEDNESDAY, SEPTEMBER 18, 1985

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:10 a.m., in room 485, Russell Senate Office Building, Hon. Mark Andrews (chairman of the committee) presiding.

Present: Senators Andrews, Gorton, Murkowski, and Abdnor.

Staff present: Pete Taylor, staff director; Virginia Boylan, staff attorney; Michael Mahsetky, staff attorney; Mary Jane Wrenn, special counsel; Debbie Storey, professional staff; Patricia Zell, staff attorney; Ipo Lung, professional staff member; Sheila Rogan, legislative aide; Max Richtman, minority staff director; Dick Doubrava, legislative director; and Mary Jo Vrem, legislative assistant.

Senator ANDREWS. The committee will come to order.

We are here this morning to receive testimony on S. 1298, a bill to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian juveniles. This bill, the Indian juvenile alcohol and drug abuse prevention bill, addresses the need—I might say the great need—to establish a comprehensive education and treatment program for abuse of alcohol and drugs by Indian juveniles.

It appears that juvenile alcohol and drug abuse has not been a high priority with either the Bureau of Indian Affairs [BIA] or the Indian Health Service [IHS]. Unfortunately, there are few education or treatment programs targeted at addressing this serious problem. Although there are no reliable statistics as to the number of youth affected, we know from the concerned members of the Indian communities that the abuse of alcohol and drugs is a leading cause of the school dropout rate, premature death, and criminal arrests of Indian youth.

There is little doubt in Indian country that the abuse of these substances is, rather than decreasing, on the rise. In addition to the old standbys, alcohol and glue, problems are now arising in connection with the ingestion of copy machine fluid and Lysol detergent. The problem is not going away, unfortunately, and I believe it's time for Congress to step in and help provide some programs to combat this problem.

The Indian juvenile alcohol and drug abuse prevention bill requires coordination between the BIA and the Indian Health Service in the education, identification, and treatment of alcohol and drug abuse. It requires tribal consultation and local input in the development of all programs authorized by the bill. Prevention of abuse by education is one of the key goals of this bill. S. 1298 requires that all BIA and tribal contract schools provide a program of instruction in the area of alcohol and drug abuse.

The bill also requires the training of all BIA and IHS personnel dealing with Indian youth in all facets of alcohol and drug abuse. Training is also available to urban Indian center personnel and other tribal and local personnel, including public school teachers and school board members. S. 1298 provides for the establishment of emergency shelters to house Indian juveniles arrested for drug or alcohol related offenses, with intensive training required of all shelter supervisors. The bill also provides for the establishment of treatment and counseling services, both inpatient and outpatient.

While S. 1298 is not the answer to the problems of alcohol and drug abuse by Native American youth, it is a concerted effort to try to address this problem. I am pleased that 16 of my colleagues, representing both parties and a geographical cross section of our country, joined me in sponsoring this bill. Earlier this year Congressmen Bereuter and Udall introduced similar legislation, and this spring Congressman McCain also introduced a bill to deal with the problems of alcohol and drug abuse among Indian youth.

I look forward to hearing the ideas and concerns of our witnesses here today. I look forward to any suggestions that you may have for improving the bill.

[The two aforementioned bills, S. 1298 and S. 1621, follow:]

99th CONGRESS
1st Session

S. 1298

To coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 13 (legislative day, June 3), 1985

Mr. Andrews (for himself, Mr. Melcher, Mr. Abdnor, Mr. Murkowski, Mr. Pressler, Mr. Goldwater, Mr. DeConcini, Mr. East, Mr. Burdick, Mr. Bingaman, Mr. Cochran, Mr. Helms, and Mr. Stevens) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

---

A BILL

To coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Juvenile Alcohol and Drug Abuse Prevention Act".

TITLE I—INTERDEPARTMENTAL AGREEMENT

Sec. 101. (a) The Secretary of the Interior and the Secretary of Health and Human Services are directed to enter into a written agreement to—

(1) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and drug abuse programs existing on the date of enactment of this Act and programs established by this Act;

(2) identify Federal, State, local, and private resources to combat alcohol and drug abuse among Indians;

(3) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and drug abuse-related services at the central, area, agency, and service unit levels;

(4) determine the scope of the Indian juvenile alcohol and drug abuse problem and its estimated financial and human costs;

(5) authorize the Bureau of Indian Affairs agency superintendents and education superintendents and the Indian Health Service service unit directors to enter into agreements described in section 102; and

(6) provide for biennial review of such agreement by the Secretary of the Interior and the Secretary of Health and Human Services.

(b)(1) The Secretary of the Interior and the Secretary of Health and Human Services shall consult with, and solicit the comments of, interested Indian tribes, Indian individuals, and Indian organizations in developing the agreement under subsection (a).

(2) The agreement under subsection (a) shall be submitted to Congress and published in the Federal Register within 180 days of the date of enactment of this Act.

SEC. 102. (a) After publication in the Federal Register of the agreement entered into under section 101, any Indian tribe may submit a written request to the Secretary of the Interior to coordinate resources and services related to alcohol and drug abuse prevention, identification, education, treatment, and follow-up care.

(b) Within 90 days of receipt of a written request of any Indian tribe submitted under subsection (a), the Secretary of the Interior, in consultation with the Secretary of Health and Human Services, shall—

(1) enter into an agreement with such tribe to identify and coordinate the responsibilities and referral resources of all agencies and programs providing alcohol and drug abuse-related resources or services within the service area of such tribe; and

(2) review and modify such agreement, as necessary, to reflect changes in the availability of resources and services related to alcohol and drug abuse prevention, identification, education, treatment, and follow-up care.

TITLE II—EDUCATION

SEC. 201. (a) The Secretary of the Interior shall require Bureau of Indian Affairs schools, and schools operated under any contract entered into under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), to provide a program of instruction regarding alcohol and drug abuse to students in kindergarten and grades one through twelve.

(b) The program required under subsection (a) shall be developed in consultation with the Indian tribe that is to be served by such program and with appropriate education and health personnel at the local level.

(c) Schools providing programs of instruction under subsection (a) are encouraged to emphasize family participation in such instruction.

SEC. 202. The Secretary of the Interior shall, within 9 months of the date of enactment of this Act, publish an alcohol and drug abuse newsletter in cooperation with the Department of Health and Human Services and the Department of Education which shall report on Indian alcohol and drug abuse projects and programs. The newsletter shall be published once in each calender quarter and shall be circulated without charge to schools, tribal offices, Bureau of Indian Affairs agency and area offices, Indian Health Service area and service unit offices, Indian Health Service alcohol programs, and other entities providing alcohol and drug abuse-related services or resources to Indian people.

TITLE III—FAMILY AND SOCIAL SERVICES

SEC. 301. (a) Any initial training program for new community health representatives and community health aids funded under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, shall include not less than two weeks of training on the problems of alcohol and drug abuse and shall include instruction in crisis intervention, family relations in the context of alcohol and drug abuse, juvenile alcohol and drug abuse, and the causes and effects of fetal alcohol syndrome.

(b)(1) The Secretary of Health and Human Services shall, either directly or through contract, make available training on the problems of alcohol and drug abuse, including instruction in crisis intervention and family relations in the context of alcohol and drug abuse, juvenile alcohol and drug abuse, and the causes and effects of fetal alcohol syndrome to—

(A) education personnel of the Bureau of Indian Affairs, including education personnel at schools operated under contract with the Bureau of Indian Affairs,

(B) personnel of the Bureau of Indian Affairs,

(C) personnel of the Indian Health Service, and

(D) supervisors of emergency shelters established under section 401(b),

who are responsible for, or work with, Indian juveniles.

(2) Upon request, the Secretary of Health and Human Services shall offer the training described in paragraph (1) to—

(A) members of school boards or designated school personnel who—

(i) govern, or are associated with, any school at least 20 percent of the enrollment of which consists of Indians, and

(ii) are responsible for, or work with, Indian juveniles;

(B) urban Indian center personnel who are responsible for, or work with, Indian juveniles;

(C) judges of tribal courts and courts of Indian offenses;

(D) personnel associated with any tribal, State, or Federal Court who are responsible for, or works with, Indian juveniles;

(E) Bureau of Indian Affairs law enforcement personnel; and

(F) members of local community and tribal organizations or educational or health institutions responsible for, or working with, Indian juveniles.

(3) The Secretary of Health and Human Services shall provide the training described in paragraph (1)—

(A) in local Indian communities, whenever practicable,

(B) at no or minimal expense to the participants or to the employers of the participants, and

(C) within an integrated program for all participants.

(4) The Secretary of Health and Human Services shall coordinate the training described in paragraph (1) with activities conducted by the Secretary of the Interior.

TITLE IV—LAW ENFORCEMENT

SEC. 401. (a) The Secretary of the Interior, in consultation with the Attorney General of the United States, shall—

(1) promulgate guidelines under which any tribal or Federal law enforcement officer may, for the benefit of any Indian juvenile arrested for an offense related to the abuse of alcohol or drugs or the safety of the community, place such Indian juvenile in a facility other than an emergency shelter described in subsection (b) or a community-based alcohol or drug abuse treatment facility, and

(2) make these guidelines available to any State which exercises criminal jurisdiction over any part of Indian country pursuant to—

(A) section 1162 of title 18, United States Code,

(B) section 7 of the Act of August 15, 1953 (67 Stat. 590; chapter 505), or

(C) section 401 of Public Law 90-284 (25 U.S.C. 1321).

(b)(1) The Secretary of the Interior, with the concurrence of the Secretary of Health and Human Services, shall establish temporary emergency shelters to house, whenever appropriate, Indian juveniles apprehended by any law enforcement officer for offenses related to the abuse of alcohol or drugs.

(2) No emergency shelter established pursuant to paragraph (1) shall commence operation until—

(A) the tribal council of any tribe to be served by such shelter approves such shelter; and

(B) such shelter meets the licensing requirements prescribed by the Bureau of Indian Affairs under paragraph (3).

(3) The Bureau of Indian Affairs shall, within 210 days of the date of enactment of this Act, prescribe standards by which the emergency shelters established pursuant to paragraph (1) shall become licensed. Such standards shall require that any individual supervising such shelter have completed the training described in section 301(b)(1) of this Act.

(4) The costs of constructing any emergency shelter are not authorized by this Act.

TITLE V—JUVENILE ALCOHOL AND DRUG ABUSE TREATMENT AND REHABILITATION

SEC. 501. (a) The President shall include in the budget submitted to Congress under section 1105 of title 31, United States Code, for the fiscal year succeeding the fiscal year in which this Act is enacted, a request for funds to establish a program that provides comprehensive alcohol and drug abuse treatment services, including detoxification and counseling services, and follow-up care in Indian Health Service facilities and in health facilities operated under any contract entered into under the Indian Self-Determination and Education Assistance Act to Indian juveniles in need of such services.

(b) No health facility described in subsection (a) shall be required under this section to provide inpatient services if such facility is primarily an outpatient facility.

(c) By no later than the date that is 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the relevant committees of the Congress a report on the progress of the program established under subsection (a).

SEC. 502. The Secretary of Health and Human Services, in consultation with Indian tribes, shall, within 180 days of the date of enactment of this Act, complete a study to determine—

(1) the size of the juvenile Indian population in need of residential alcohol and drug abuse treatment;

(2) the location of residential facilities at which such treatment is available or could be made available; and

(3) the cost of providing such treatment.

SEC. 503. (a)(1) The Secretary of Health and Human Services shall, in consultation with Indian tribes and the Secretary of the Interior, identify and utilize whenever possible existing—

(A) facilities owned by the Federal Government or by an Indian tribe, or

(B) local community or private hospitals or other appropriate facilities,

that would be suitable for use as residential alcohol and drug abuse treatment centers for Indian juveniles in order to meet the needs identified in the study conducted under section 502.

(2) Any facility described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency having responsibility for the facility.

(3) The Secretary of Health and Human Services may, directly or by contract, renovate any facility described in

paragraph (1). Any such renovation shall conform with such terms and conditions as have been agreed upon under paragraph (2).

(b) The Secretary of the Interior shall identify for the Secretary of Health and Human Services any existing Bureau of Indian Affairs facilities which could be utilized for residential alcohol and drug abuse treatment centers for Indian juveniles.

(c) If the number of facilities which may be renovated under subsection (a)(3) is inadequate to meet the treatment needs identified in the study conducted under section 502, the Secretary of Health and Human Services shall seek specific authority to construct such facilities as the Secretary of Health and Human Services finds necessary to meet such treatment needs.

TITLE VI—DEFINITIONS, EFFECTIVE DATE, AND AUTHORIZATION OF APPROPRIATIONS

SEC. 601. For the purposes of this Act—

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Claims Settlement

Act (43 U.S.C. 1601, et seq.) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "juvenile" means any Indian under the age of 19.

(4) The term "service unit" means an administrative entity within the Indian Health Service serving one or more Indian tribes within a geographical area defined by regulation by the Indian Health Service.

(5) The term "service area" means the geographical area served by a service unit.

SEC. 602. The Secretary of the Interior and the Secretary of Health and Human Resources are authorized to prescribe such regulations as may be necessary to carry out the provisions of this Act.

SEC. 603. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

○

99th CONGRESS
1st Session

S. 1621

To amend title 25, United States Code, relating to Indian education programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

September 11 (legislative day, September 9), 1985

Mr. Melcher (for himself, Mr. Andrews, Mr. Burdick, Mr. Abdnor, and Mr. East) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

---

A BILL

To amend title 25, United States Code, relating to Indian education programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1128 of Public Law 95-561 (25 U.S.C. 2008), as amended, is amended by—

(1) deleting "Indian students" in subsection (a)(1) and substituting in lieu thereof "eligible Indian students";

(2) deleting "Indian child" between the words "for each" and "attending such school", and "for an"

and "in public school" in subsection (b), and substitute in lieu thereof "eligible Indian student"; and

(3) by adding the following new subsection:

"(f)(1) For purposes of this section, the term 'eligible Indian student' shall include students who are members of a federally recognized tribe or who are at least one-fourth degree Indian blood.

"(2) Any student who is not an eligible Indian student but who is a dependent of an employee of the Federal or tribal government and who resides on or near a school site may, pursuant to rules and regulations prescribed by the Secretary, attend a school operated by the Bureau under this section without charge for tuition.

"(3) Students who are not otherwise provided for in this section may, under rules and regulations prescribed by the Secretary, be admitted to any Bureau operated school, provided that the local Indian school board agrees to such attendance and provided that the tuition fees charged to such students shall in no cases exceed the tuition fees charged by the nearest public school district providing free public education in the State in which the Bureau operated school is located. Tuition paid under this paragraph shall be added to the Bureau school's allotment received under this section.

"(4) Schools operated under contract with the Bureau may, subject to policies established by the governing school board, accept students who are not eligible for funding under this section. Tuition received under this provision shall be in addition to the school's funding allotment under this section.".

SEC. 2. Any other provision of law notwithstanding, any student who attended a Bureau funded school during the 1984–1985 academic year shall be deemed eligible to attend the same Bureau funded school under the same circumstances during the 1985–1986 academic year.

SEC. 3. Sections 288, 289, and 297 of title 25 of the United States Code are hereby repealed.

Senator **Andrews**. Now before we take up S. 1298, I do want to announce that immediately following the hearing on S. 1298, the committee will take testimony on S. 1621, a bill to amend title 25, United States Code, relating to Indian education programs.

We will now proceed with the Indian juvenile alcohol and drug abuse prevention bill. Our first witness will be Ms. Hazel Elbert, the Acting Assistant Secretary for Indian Affairs of the Bureau of Indian Affairs.

My apologies also for the fact—on behalf of my colleague, Senator Melcher, and myself—we are at this moment in an agricultural committee meeting marking up the farm bill, and while we are both deeply concerned with Indian people and their problems on the reservation, we are also deeply concerned, since many of those Indian people get a good deal of income from agriculture, with what happens to the farm bill. Therefore, I may well have to depart, Madam Secretary, but because your time is extremely valuable we didn't want to cancel this hearing. We would prefer then to have our staff take the testimony so both Senator Melcher and myself and our colleagues on the committee can examine it as we move this bill along.

Ms. Elbert. Thank you, Mr. Chairman.

Senator Andrews. I know you will understand how it works. That's one of the problems, and it's also the explanation why some of our colleagues are not here at this moment, but welcome to the committee. We are looking forward to hearing your testimony.

STATEMENT OF HAZEL ELBERT, ACTING DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY NANCY GARRETT, ACTING DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS

Ms. **Elbert**. Thank you, Mr. Chairman. Good morning.

I am pleased to be here today to present the views of the Department of the Interior on S. 1298, a bill to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth.

Mr. Chairman, we consider alcohol and drug abuse to be the most serious social and health problem facing Indian people today. Our statistics show that the majority of BIA and tribal arrests involve alcohol and drug abuse and that many of those arrests are juveniles.

S. 1298 attempts to address the critical problem of juvenile alcohol and drug abuse in Indian country by requiring more coordination of information and services between the BIA and the Indian Health Service; training of all personnel working directly with Indian youth; a more comprehensive education program in BIA schools; alternative placements for children arrested for drug and alcohol related offenses; and more comprehensive alcohol and drug abuse treatment centers which include detoxification facilities, counseling services, and followup care.

Although we support some of the concepts addressed in S. 1298, we oppose the bill as drafted. To adequately discuss each of our concerns, I would like to briefly comment on each title of the bill.

Title I provides for extensive coordination of information and services between the BIA and the IHS. We agree there is a need for better coordination and we will be happy to pursue it. However, we believe that the Indian Health Service is better equipped to work with the tribes to identify services available to them in their immediate geographic area. Moreover, we question the need for formal, tribe-by-tribe agreements to identify and coordinate services which would force assistance to be allocated on a first-come, first-served basis rather than to where the greatest need might exist.

Title II requires that alcohol and drug abuse instructional programs be provided to all students in BIA and contract schools. We believe that this provision would be an appropriate replacement for the Indian school provisions in the act of May 29, 1886, which requires similar instruction.

We have such programs in place. This school year these programs will be expanded and improved in connection with an interagency agreement with the Department of Justice under which we will receive $150,000 to be used for training school and dormitory staff in alcohol and drug abuse programs and for purchasing classroom materials. Our preliminary plans are to provided training to teachers from 48 schools in eight locations. This program will also provide materials to schools which can be used immediately by the teachers after they receive the training. This program will affect approximately 10,000 students.

In addition, five of our employees will receive training in Seattle and become trainers of a new in-house training cadre. The cadre will be used throughout the Bureau's education system to train other teachers and staff.

Title II also requires the Bureau to publish a quarterly newsletter to report on Indian alcohol and drug abuse projects. This provision is unnecessary. The Bureau recently contracted with TCI, Inc., to publish and distribute a newsletter called "Linkages for Indian Child Welfare Programs." We propose expanding this newsletter to include topics on juvenile alcoholism and drug abuse.

The first issue published under the contract will be distributed in mid-October, and the central article will discuss this very subject. We estimate that within existing resources, we could increase the number of pages of this publication by 25 percent, as well as double the number of issues distributed. This approach would be much less costly than initiating a new publication, and could be done immediately without additional appropriations.

Title III requires the IHS to provide training for new community health representatives and aides. We defer to the IHS on this title.

Title IV authorizes the Secretary of the Interior to promulgate guidelines authorizing law enforcement officers to place juveniles arrested for offenses related to the abuse of alcohol and drugs in facilities other than an emergency shelter or a community-based treatment facility. The only other appropriate facilities apparently would be detention facilities. As written, section 401(a) of this title is unnecessary, since the Secretary of the Interior already has authority to place juveniles in detention facilities.

Title IV also requires the Secretary to establish temporary emergency shelters to house Indian juveniles apprehended for offenses relating to alcohol and drug abuse. We recognize the need for some kind of emergency shelter or facility to address the problem. However, we must assure that additional facilities, if any, are not duplicative of the existing networks of special care facilities and foster homes supported by the Indian Child Welfare Act Grant Program.

Therefore, we feel that no new special funding authority is presently needed to establish special new emergency shelters. In using any facility, we would propose using State and tribal licensing requirements, as we do under the Indian Child Welfare Act Program. We strongly believe that a properly staffed program can be used as a vehicle for identifying the proper course of action for juveniles with drug and alcohol related problems.

Title V requires the IHS to provide comprehensive alcohol and drug abuse treatment services, including detoxification, counseling services, and followup care in IHS facilities. We defer to IHS on this title.

Title VI provides a number of definitions which we find acceptable.

In summary, Mr. Chairman, we applaud the Congress in attempting to address this very serious and complex problem, and we would be pleased to work with the committee.

This concludes my statement. I will be happy to answer any questions. I have with me here at the table Nancy Garrett, who is the Acting Director of the Office of Indian Education Programs, who will assist me with answering questions.

[Ms. Elbert's prepared statement, on behalf of the Department of Interior, follows:]

STATEMENT OF HAZEL ELBERT, ACTING DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE SELECT COMMITTEE ON INDIAN AFFAIRS, UNITED STATES SENATE, ON S. 1298, A BILL "TO COORDINATE AND EXPAND SERVICES FOR THE PREVENTION, IDENTIFICATION, AND TREATMENT OF ALCOHOL AND DRUG ABUSE AMONG INDIAN YOUTH, AND FOR OTHER PURPOSES."

SEPTEMBER 18, 1985

Good morning Mr. Chairman and Members of the Committee. I am pleased to be here today to present the views of the Department of the Interior on S. 1298, a bill "To coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth, and for other purposes."

We consider alcohol and drug abuse to be the most serious social and health problem facing Indian people today. Our statistics show that the majority of BIA and tribal arrests involve alcohol and drug abuse and that many of those arrested are juveniles.

S. 1298 attempts to address the critical problem of juvenile alcohol and drug abuse in Indian Country by requiring more coordination of information and services between the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS); training of all personnel working directly with Indian youth; a more comprehensive education program in BIA schools; alternative placements for children arrested for drug and alcohol related offenses; and more comprehensive alcohol and drug abuse treatment centers which include detoxification facilities, counseling services, and follow-up care.

Although we support some of the concepts addressed in S. 1298, we oppose the bill as drafted. To adequately discuss each of our concerns I would like to briefly comment on each title of the bill.

Title I provides for extensive coordination of information and services between the BIA and the IHS. We agree there is a need for better coordination and we will be happy to pursue it. However, we believe that the Indian Health Service is better equipped to work with the tribes to identify services available to them in their immediate geographic area. Moreover, we question the need for formal tribe-by-tribe agreements to identify and coordinate services which would force assistance to be allocated on a first-come, first-served basis rather than to where the greatest need might exist.

Title II requires that alcohol and drug abuse instructional programs be provided to all students in BIA and contract schools. We believe that this provision would be an appropriate replacement for the Indian school provisions in the Act of May 29, 1886 (24 Stat. 69; 20 U.S.C. 111, 112) which requires similar instruction. We have such programs in place. This school year these programs will be expanded and improved in connection with an interagency agreement with the Department of Justice under which we will receive $150,000 to be used for training school and dormitory staff in alcohol and drug abuse programs and for purchasing classroom materials. Our preliminary plans are to provide training to teachers from 48 schools in eight locations. This program will also provide materials to schools which can be used immediately by the teachers after they receive the training. This program will affect approximately ten thousand students.

In addition, five of our employees will receive training in Seattle and become trainers of a new in-house training cadre. The cadre will be used throughout the Bureau's education system to train other teachers and staff.

Title II also requires the Bureau to publish a quarterly newsletter to report on Indian alcohol and drug abuse projects. This provision is unnecessary. The Bureau recently contracted with TCI Inc. to publish and distribute a newsletter called "Linkages for Indian Child Welfare Programs." We propose expanding this newsletter to include topics on juvenile alcoholism and drug abuse. The first issue published under the contract will be distributed in mid-October and the central article will discuss this very subject. We estimate that within existing resources, we could increase the number of pages of this publication by 25 percent (4 pages) as well as double the number of issues distributed. This approach would be much less costly than initiating a new publication and could be done immediately without additional appropriations.

Title III requires the IHS to provide training for new community health representatives and aides. We defer to the IHS on this title.

Title IV authorizes the Secretary of the Interior to promulgate guidelines authorizing law enforcement officers to place juveniles arrested for offenses related to the abuse of alcohol and drugs in facilities other than an emergency shelter or a community-based treatment facility. The only other appropriate facilities apparently would be detention facilities. As written, section 401(a) of this Title is unnecessary since the Secretary of the Interior already has authority to place juveniles in detention facilities.

Title IV also requires the Secretary to establish temporary emergency shelters to house Indian juveniles apprehended for offenses relating to alcohol and drug abuse. We recognize the need for some kind of emergency shelter or facility to address the problem. However, we must assure that additional facilities, if any, are not duplicative of the existing networks of special care facilities and foster homes supported by the Indian Child Welfare Act grant program. Therefore, we feel that no new special funding authority is presently needed to establish special new emergency shelters. In using any facilities we would propose using state and tribal licensing requirements as we do under the Indian Child Welfare Act Program. We strongly believe that a properly staffed program can be used as a vehicle for identifying the proper course of action for juveniles with drug and alcohol related problems.

Title V requires the IHS to provide comprehensive alcohol and drug abuse treatment services including detoxification, counseling services and follow-up care in IHS facilities. We defer to the IHS on this title.

Title VI provides a number of definitions which we find acceptable.

In summary, we applaud the Congress in attempting to address this very serious and complex problem and we would be pleased to work with the Committee.

This concludes my prepared statement. I will be happy to answer questions the Committee may have.

Mr. **Taylor** [presiding]. Thank you for your statement, Madam Secretary. I would like to make a couple of comments on the statement, and then I think we have some prepared questions that we'll start through.

I notice in your testimony that you state that new special funding authority does not appear to be needed to establish new emergency shelters, and you refer to the Indian Child Welfare Act in that same paragraph. Is it the opinion of the Department that the Indian Child Welfare Act provides existing authority for establishing these temporary shelters?

Ms. **Elbert**. We feel we already have authority to place children in facilities when they are arrested for alcohol and drug abuse.

Mr. **Taylor**. But those would be existing facilities.

Ms. **Elbert**. In existing facilities, yes.

Mr. **Taylor**. Is it the opinion of the Department that the Child Welfare Act provides existing statutory authority for construction of shelters as they may be deemed necessary?

Ms. **Elbert**. For the construction of shelters, I'm not quite sure on that. I think if we took at look at the act we could probably give a broader interpretation to it than we already have, which would give us additional authorities in addition to what we have, but right now I don't believe we are interpreting the act to include the construction of detention facilities or emergency facilities just for alcohol and drug abuse.

Mr. **Taylor**. In applauding the Congress in attempting to address this very serious and complex problem, you also indicate that you would be pleased to work with the committee. I assume that that means in helping to revise or streamline this bill as it may appear necessary, but you do support the concept of some legislation to address this very, very difficult problem?

Ms. **Elbert**. That's correct, Mr. Chairman.

Mr. **Taylor**. How many BIA and tribal contract schools, including boarding schools, are currently operated by the Bureau? I am talking only about grades kindergarten through 12.

Ms. **Elbert**. I would like for Nancy Garrett to assist me with education questions.

Ms. **Garrett**. In answer to your question, the Bureau presently is funding 183 schools, elementary and secondary schools, which include grades K through 12. Now the actual number of schools that have the full range of K through 12 is approximately a dozen schools, but I think that if you look at the total number of schools that we have—the elementary, the secondary, and then those that are a combination—the current total is 183, and that 183 does not include the 10 schools that just transferred to the State of Alaska.

Mr. **Taylor**. How many such schools are still in operation in the State of Alaska?

Ms. **Garrett**. As of June 30, 1985, the Bureau no longer funds any schools in the State of Alaska.

Mr. **Taylor**. How many drug and alcohol programs are currently in place in these schools?

Ms. **Garrett**. We have just completed a survey of the schools to assemble that kind of information. The latest report that we have reflects that approximately 130 of our schools presently have some kind of a formal program on alcohol, drug, or inhalant abuse. Of the 50 schools who do not have formal programs, many of those schools participate at the local level with the Indian Health Service, particularly for counseling services for the children in those schools.

Mr. TAYLOR. Could you describe the programs that are being made available, and is the curriculum?

Ms. GARRETT. No, the curriculum is not uniform through the schools. In fact, my answer to your question might be that the programs in the schools are as varied as the number of schools themselves. At the elementary level the programs focus on making the child feel good about themselves—the approach that "You're good because you're you," the concept of self-esteem. Even at the second, third, fourth, fifth grade levels we start teaching the children how to say no to alcohol and drugs and inhalants. Programs at the mid and high school level focus more on or as much on the harm that alcohol, drugs, and inhalants have on the body. At that level we also start teaching the children how to look for signs of problems amongst their peer students. In many, in fact in all of our high schools we have the Fetal Alcohol Syndrome Program. At the high school level, also, in the health and PE classes there is a requirement for a session on alcohol and drug abuse.

I would say that, in terms of further description of the programs, that the techniques used to get the message across are also as varied as the programs themselves. Some schools use tapes. Some schools use slides or films. Other schools, particularly at the lower grades, would bring in a puppet show. Other schools would have speakers from the Indian Health Service or from local health organizations or colleges. Some of the schools, in addition to some or all of these, have handouts for the children so they can take them home and always have them available to them.

I think another point that I would want to make here is that one of the things that is impressive to me is the coordination at the local level between the Indian Health Service and the Bureau of Indian Affairs and the tribes and the States and the local public school districts and the churches and other groups to help students become aware of the alcohol, drug abuse, and inhalant issues. While I would agree with the statement made at the beginning of this hearing that perhaps there is not as much coordination at the central office level as their might be, I am impressed with the kind of cooperation and coordination that does exist at the local level in many of our schools.

Mr. TAYLOR. I noticed that there was a study done in 1982, titled "A Report on Alcohol and Drug Abuse in BIA Schools," apparently performed by the Division of Student Support Services, and the report was were quite critical of and recommended a need for education in the drug abuse and inhalant area. This was in 1982. How recently did the BIA begin these programs that you are referring to?

Ms. GARRETT. Some of the programs have been in existence for several years but, because of congressional interest, and indeed our own interest, over the last year and a half there has been a special emphasis on getting these programs in place in the schools. I would go on to add that some of our superintendents feel so strongly about the program that as a part of their evaluation of the schools which they supervise, they require an Alcohol and Drug Abuse Program, and they evaluate the programs when they go out and do the general review of the school. Therefore, I would say that the particular emphasis has been over the last year, year and a half.

Mr. **Taylor**. Did the results of those evaluations, by any chance, find their way into this survey you have just referred to?

Ms. **Garrett**. I don't think there is any formal survey that I could point to. It has been more of an informal kind of survey, and we have not done a formal survey from, say, my office until recently when we requested information from each of the schools about the programs which they are conducting. We have not attempted to evaluate those programs at, say, my level but, as I say, the superintendents as they go out and review the performance of the principal in the school have been looking at the effectiveness of those programs at the local level.

Mr. **Taylor**. When was the information sought by the Bureau that results in this survey that you are referring to?

Ms. **Garrett**. Within the last several months. I guess we sent the first request out about 3 months ago, so just in the last couple of months that we have sought to pull that information together at my level.

Mr. **Taylor**. It was subsequent to the introduction of the legislation on both the House and the Senate side?

Ms. **Garrett**. I would say that certainly our interest in pulling that information together was a result of the interest of this committee.

Mr. **Taylor**. Does the survey, Ms. Garrett, describe the type of programs and the schools where these programs are being offered?

Ms. **Garrett**. Yes, we do have that information, and we could certainly provide it to the committee if you would be interested in having it.

Mr. **Taylor**. We would appreciate that——

Ms. **Garrett**. You bet.

Mr. **Taylor** [continuing]. To make it a part of this record.

Ms. **Garrett**. Yes, sir.

[At the request of Mr. Taylor, the following additional information was submitted by Ms. Garrett for inclusion in the record:]

Cooperative schools, students, counted for both ISEP and impact aid

School	*Number*
Mandaree Day School, Mandaree, ND 58757	174
Twin Buttes Day School, Halliday, ND 58636	46
Little Wound School, Kyle, SD 57752	283
Loneman Day School, Oglala, SD 57764	61
Indian Township School, Peter Dana Point, Princeton, ME 04668	89
Beatrice Rafferty School, Perry, ME 04667	120
Indian Island School, P.O. Box 566, Old Town, ME 04468	82
White Shield School, Roseglen, ND 58775	106
Turtle Mountain Elementary, and Middle School, Belcourt, ND 58316	847
American Horse School, Allen, SD 57714	49
Manderson Day School, Manderson, SD 57776	74
Pine Ridge Schools, Pine Ridge, SD 57770	265
Porcupine Day School, P.O. Box 180, Porcupine, SD 57772	76
Crazy Horse School, P.O. Box 296, Wanblee, SD 57577	215
Fort Thompson Elementary School, Fort Thompson, SD 57339	144
Lower Brule Day School, Lower Brule, SD 57548	209
Tuba City High School, P.O. Box 15E, Tuba City, AZ 86045	569
Cheyenne-Eagle Butte, Eagle Butte, SD 57625	482

Mr. TAYLOR. Turning to the question of the staff conducting these programs, since the initiative seems to be springing from the local level and eking its way upward, what sort of training is offered to BIA personnel in terms of their capacity to instruct students or to know a problem student when they see one?

Ms. GARRETT. I think there are probably a couple of answers to that question. First I would say that on an annual basis our staff in the schools, including the dormitory personnel, are required to attend in-service training provided by the Indian Health Service, and I am not aware of any school that does not require the staff to participate in the training provided by the Indian Health Service.

Second, for the counselors in our schools, as you know, those counselors must be certified by the State in which they are employed by the school. On a recurring basis those counselors must get their certification renewed. Related to that is the need for them to go back and take some kind of additional course work, either at a university or through some other recognized organization.

Third, I would say in recognition that we think our teachers need more awareness of the problems of alcohol, drug abuse, and inhalants, as we noted in our testimony we have received a grant from the Justice Department—$150,000—which we will use for teachers in approximately 50 schools to introduce them to new techniques for identifying students who have these problems, new ways of making students aware of the problems. We think that that effort will be quite useful in bringing our teachers up to date with some of the modern techniques and approaches. That training we expect to start some time in the latter part of October. By the way, that training will be conducted by an outside organization who have done quite a bit of this kind of thing in public schools around the country.

Mr. TAYLOR. It seems to me that the Indian Health Service has done quite a bit of investigation into problems involving alcohol and Indian-related problems. I might raise a question—two questions, I think: To what extent is the Bureau coordinating with the Indian Health Service on this training matter? It perhaps calls into question why it is necessary to go to an outside source.

Ms. GARRETT. I would say, to repeat something I said a moment ago, that at the local level there certainly is very close coordination with the Indian Health Service. As I indicated, we do require our school staff to participate in the in-service training provided by the Indian Health Service, so I say that at the local level there is that coordination. Again, I did state a few moments ago that there has not been the kind of coordination at this level that perhaps would be desirable.

Mr. TAYLOR. The Bureau hasn't received the $150,000 yet. Is this going to go out on a request, an RFP, or have you already identified the group that you——

Ms. GARRETT. We have identified a firm that we would like to work with. We have not yet gone through the process of working with the contracting officer to award that kind of a contract. We are not committed at this point to going with a certain firm. We have talked to a firm about whether they might be available to do something like this for us, but we have not finalized our plans yet.

Mr. TAYLOR. Can you share with us the name of that firm and what expertise they have to offer in this area?

Ms. GARRETT. I think it would be inappropriate for me to do that until such time as the contracting people are comfortable that that firm would be a possible candidate and that we might be able to go sole source.

Mr. TAYLOR. There seems to be, from what the committee has heard from outside sources, major problems with alcohol and drug abuse at BIA boarding schools. It seems like there is more of a problem in these boarding schools than in the other schools that the Bureau operates. Could you elaborate on that problem, and do you concur in that statement?

Ms. GARRETT. I certainly would not for a second question that there is a problem, primarily of alcohol and inhalants, I would say, more than the drug problem. I think it's probably fair to say that in our secondary programs, that perhaps up to 25 percent of the students would be classified as having a problem.

Now as to whether or not I think there is more of a problem in the boarding schools than in the day schools, I am not sure that I would make that statement. We certainly are aware of the problems in the boarding schools because we have those students 7 days a week, 24 hours a day, but we know from input from our people at the local level that students in the day schools have the problems. It's just that we are not as aware of the incidents because they occur at the home or certainly outside of the school situation, and normally the incidents that we hear about are after regular school hours.

Therefore, I would be reluctant to say that the problem is worse in the boarding schools. I would simply say that because, as I stated, we have those students 24 hours a day, 7 days a week, we are more able to be familiar with the problems of the students in the boarding schools.

Mr. TAYLOR. In light of the more intensive involvement of BIA personnel with students that are in a boarding school setting, would it be your anticipation to target the employees of boarding schools specifically for training at an early stage in this?

Ms. GARRETT. Oh, I think in fact if we are successful in getting the contractor to carry out the Teacher Training Program, our highest priority is to include the teachers and the dormitory staff and the counselors from particularly the off-reservation boarding schools first in that training. Yes, sir, I agree with you totally on that.

Mr. TAYLOR. Turning to the question of juvenile detention centers or temporary shelters, have you run any surveys on reservations, on the adequacy of juvenile detention centers?

Ms. ELBERT. We don't have definite statistics on that but it's our policy that we separate the children from sight and sound of the adults in our detention facilities, in our jails and our detention facilities. We don't have the exact number of——

Mr. TAYLOR. Are all of the Bureau-operated jail facilities capable of segregating juveniles from the adult population?

Ms. ELBERT. At this point there would be a few out there, I would say, that are not, but we make that a high priority, especially in the jobs bill effort that we have underway as well as in any instances where we renovate, repair, or replace jails. We make certain that we provide for the separation of sight and sound of the juveniles.

Mr. **Taylor**. Madam Secretary, on an area that we have discussed before involving contract jail facilities that are not actually owned by the Bureau of Indian Affairs, could you advise the committee on the number of such facilities and whether or not those contract facilities have adequate provision for segregating juveniles from adult inmates?

Ms. **Elbert**. That would be a requirement of the contract that we would have with the tribe because that's our policy. I do have some figures on that but I don't have them with me. I would be glad to get those for you——

Mr. **Taylor**. Fine.

Ms. **Elbert** [continuing]. But it would be a requirement. We do know that there are a number of facilities out there that don't meet the requirement.

Mr. **Taylor**. If we could have that information as well as an identification of what the contract facilities are, that would be helpful—you know, which tribe or reservation has them.

Ms. **Elbert**. We will provide that for you.

Mr. **Taylor**. If a juvenile is arrested for an alcohol or drug-related offense, what happens to the child? Well, apparently if you have segregation facilities, I assume that they might be placed in the detention center. I think the question really relates to the number of reservations that have adequate temporary facilities, that might allow a child to be put in a facility that is something less than a detention center.

Ms. **Elbert**. We try not to put them in the facility with the adults.

Mr. **Taylor**. Have you run any surveys on the number of such facilities that are available?

Ms. **Elbert**. We have some statistics that I do not have with me, and I am just not knowledgeable about them.

Mr. **Taylor**. That could be provided for the record, also?

Ms. **Elbert**. We can provide that for the record.

Mr. **Taylor**. Thank you. I don't have any further questions.

[At the request of Mr. Taylor, the following additional information was submitted for inclusion in the record by Ms. Elbert:]

SPECIAL DETENTION FACILITIES

Area	No. of Facilities meeting Sight & Sound Criteria	No. of Facilities for Drug and Alcohol related detainees	Juvenile Detention Facilities
ABR	Rosebud (B)	Standing Rock (T)	Sesseton (T)
ANA	0	0	0
ALB	0	0	Zuni (T)
BIL	0	0	Wolf Point (B)
EAS	0	0	0
MIN	Menominee (T)	0	Menominee (T) Red Lake (T)
NAV	0	Crownpoint (T) Chinle (T) Tuba City (T)	Navajo, NM (T) Tohatchi (T) Kaibito (T)
PHX	Sacaton (B) Salt River (T)	0	AK-Chin (T) Papago (B) Colorado River (T)
POR	Ft. Hall (T) Warm Springs (T) Yakima (T)	Ft. Hall (T) Warm Springs (T) Yakima (T)	Warm Springs (T)
TOTAL:	8 (3 B) (5 T)	7 (all T)	12 (2 B) (12 T)

(T) Tribal
(B) Bureau

Mr. TAYLOR. Senator Murkowski.

Senator MURKOWSKI. Thank you very much, Pete. I have an opening statement that I would like to submit for the record and highlight.

Of concern to me are the financial and human costs of alcohol and drug abuse, and recent scientific analysis seems to indicate that we have lost about $49 to $50 billion due to the cost of drug abuse in this country. When that relates to 5 percent of our total Federal budget, I think it begins to seep in. In our State of Alaska alone it is estimated that drug trafficking is running over $100 million. When you equate that to each resident of the State, that's over $200.

The numbers, of course, can be translated into domestic violence, suicide, violent crime, and other abuses, but I don't think there is any question that in our area substance abuse is one of the most serious health problems in the State and particularly affects Alaska's Natives, American Indians, in the community today.

I had an opportunity to chair a Senate hearing in my State last month, specifically to address the scope of drug trafficking in our area, and among the witnesses was the chief of police of a small village consisting of approximately 2,000 residents. These were Alaskan Native, Eskimo people. During the police chief's 30-month tenure, his officers responded to over 48 calls where persons attempting to harm themselves actually succeeded in doing so, and virtually 99 percent of these cases were associated with drug abuse. The impact of drugs in these small communities was devastating. His quote was: "What do you tell a Native family that comes in from a village of 150 people to collect the remains of a son, a son who has killed himself while abusing a combination of drugs and alcohol?" These are some of the examples that were brought out at the hearing.

Now before us in this hearing is the Indian juvenile alcohol and drug abuse bill, which will require coordination between the BIA and the Indian Health Service in identification and treatment of alcohol and drug abuse among Indian youth. Of particular importance to me is the legislation that provides that alcohol and drug abuse education be taught in the schools, and I guess it goes through grade 12, with the emphasis on the younger children. I think we would all agree that we must educate our young people before the exposure to alcohol reaches a point where they have become addicted to it.

With the tremendous accessibility of drugs in our society today, and particularly among young people in Alaska, we have to reflect on the peer pressure which dictates that they want to be a part of the crowd and, as a consequence, they don't have the maturity to really address the decisions that they are making. When you reflect on the alternatives for those that do experiment with drugs, far too often that initial experiment results in a change in their lifestyle where they have to make certain concessions to maintain a supply of drugs, which breaks down their self-confidence, their educational goals, their friends, and on and on, and ultimately ruins their lives. The only alternative is a very difficult withdrawal program and the point is, there is no easy way out.

The thing that concerns me is how we can prepare these people at a crucial age before they can really have the maturity of judgment. I think one of the better ways to do it, in addition to education, is to reduce accessibility. I have been working along with a number of my colleagues in that vein.

The legislation isn't going to be a final solution but I think it's step in the right direction. I am going to be conducting a field hearing in Alaska before the Alaska Federation of Natives convention group in October, and I am going to hear more firsthand about the problems, but I guess what concerns me is a perception with regard to the attitude of the BIA in prioritizing this very, very difficult problem that faces young Americans and particularly young Indian Americans.

[Senator Murkowski's opening statement follows:]

OPENING STATEMENT OF SENATOR FRANK H. MURKOWSKI, U.S. SENATOR FROM THE STATE OF ALASKA

The financial and human costs of alcohol and drug abuse are extremely high. An analysis done by the Research Triangle Institute in North Carolina showed that nationally we lost $49.9 billion due to the costs of drug abuse. That's 5% of the total Federal budget. In Alaska, it's estimated that drug traffickers sell over $100 million worth of drugs every year. That's $200 for every man, woman, and child living in the State.

These numbers can be translated into increased domestic violence, suicide, accidental death, infant disease, and violent crime. Substance abuse is the most serious health problem in the American Indian and Alaskan Native community today. The associated medical conditions resultant from substance abuse such as suicidal disorders, pneumonia, and liver diseases occur much more often among the American Indian and Native population than the general U.S. population as a whole.

Last month I chaired a Senate hearing in Anchorage to examine the scope and impact of drug trafficking in the State of Alaska. Among the witnesses was the police chief of an Alaskan village with 2,000 residents consisting of many Alaskan Natives. The police chief told me that during his thirty month tenure as police chief, his officers have responded to 48 calls where a person is attempting to harm himself or has actually succeeded in doing so. In a majority of these cases, drug abuse has been involved. I'll share some of his other observations about the impact of narcotics on a small rural town:

"What do you tell a Native family that comes in from a village of 200 to collect the remains of their son. A son who killed himself while using a combination of drugs and alcohol."

"I have spoken with wives at domestic violence calls, they have gone into great detail telling how their husband started out just using a little marijuana and then started using more and more and then started using all the families' money to buy cocaine."

These are but a few examples of how the effects of drug and alcohol abuse in Alaskan villages can be devastating.

The Indian Juvenile Alcohol and Drug Abuse bill will require coordination between the Bureau of Indian Affairs and the Indian Health Service in education, identification and treatment of alcohol and drug abuse by Indian youth. Of particular importance to me is that this legislation provides that alcohol and drug abuse education be taught in schools from kindergarten through grade 12. This emphasis on young children is extremely important.

We must educate young people before addiction and alcoholism ruin their lives. My hearing in Anchorage pointed out vividly that young people often do not have the maturity to withstand the pressures of being "part of the crowd." Angie, a seventeen year old Alaskan who had a drug abuse problem, spoke simply but eloquently about peer pressure. When asked why she first experimented with drugs, Angie answered "because I wanted to be in with the crowd. I thought I was not good enough for the people who made straight A's, and all that kind of stuff. So I wanted to be in the other crowd." We as parents, educators, health care providers, and legislators have a responsibility to our children to help them to say "no" to drugs and alcohol.

This bill is not the final solution to the problems of alcohol and drug abuse, but it is an important step in the right direction. A combination of strong interdiction, education, and prevention programs will bring positive results.

I am also going to conduct a field hearing in Alaska this Fall on this bill. I believe it is important to hear first hand from those most directly affected by this legislation about the problems it seeks to address and also on the specific provisions of the bill itself.

I look forward to hearing from today's witnesses as we address the urgent health needs of Alaska Natives and American Indians.

Senator MURKONSKI. I would like to ask specifically just what pilot or model programs might be available to apply to the smaller, isolated areas where, once drugs come in, they have an effect that perhaps we saw when alcohol was first introduced. Alcohol is something that I think is a little different, not totally, but it's hard to reduce accessibility of alcohol, even for those communities that have decided to be "dry," but the question of availability of drugs is something else. Do you have any pilot programs in mind?

Ms. GARRETT. Well, our emphasis has been—because of the nature of the problems in particularly the schools in the lower 48—has been alcohol and, as we discussed, the more modern problem of inhalants and sniffing glue and so forth, and so our models tend to be more for alcohol problems rather than drug problems. I would say that we do not have a model that we use in the schools right now for drugs but there are several models that we use for alcohol.

However, I would quickly add that, Senator, we really do try to leave the decision to the local school board and to the local school officials to decide the kind of program that best works for their geographic location, the kind of students they have, the kind of families represented by those students. We have not, at my level, tried to impose a particular program on schools around the country.

Senator MURKOWSKI. I don't think it's a question of imposing, and I am really wondering if from the standpoint of addressing the problem it wouldn't be better to separate alcoholism and drugs.

Ms. GARRETT. Yes, sir. I agree.

Senator MURKOWSKI. Have you thought of that?

Ms. GARRETT. Yes, sir, I do, and I——

Senator MURKOWSKI. Do you recommend that?

Ms. GARRETT. Yes, sir, I do.

Senator MURKOWSKI. Well, then, my question would be, do you intend to try and develop some drug education programs, model programs, for the bush?

Ms. GARRETT. Yes, sir. I think that, particularly if this legislation is passed, we simply must put greater emphasis on the drug aspect as we have been on the alcohol aspect. Yes, I do agree with that, and yes, we would expect to develop some opportunities for those kinds of programs.

Senator MURKOWSKI. You would do that through BIA?

Ms. GARRETT. We would do it through BIA but we certainly would do it in cooperation with the Indian Health Service, private groups around the country, and others who have had some success in this area.

Senator MURKOWSKI. Do you have funding to initiate drug educational programs?

Ms. GARRETT. We haven't set aside, other than the grant that I spoke to a moment ago that we received from the Justice Department, we have not set aside a particular sum of money just to do work in alcohol and drug abuse. The schools, through the allocations which they receive every year, do decide what programs and how much they are going to spend, whether it is for alcohol and drug abuse or any other program.

Senator MURKOWSKI. I guess my frustration is my understanding that the Indian Health Service is spending about 1 to 1.5 percent of their budget on the combined area of drug and alcohol abuse, which seems in relationship to the problem a very little percentage of the budgetary funds. I am just wondering your opinion of the prioritization of their funding when it would seem that the cost to society for care of those that are afflicted is so high that more should be spent in the prevention area, the education area.

Do you feel 1 percent of their total budget, do you feel that is adequate?

Ms. GARRETT. Mr. Chairman, I really am not familiar enough with the Indian Health Service Programs to comment on that, but I would want to restate something I said before you came in the room, and that is that at the local level we have very, very good cooperation from the Indian Health Service in providing services to our students. As I indicated, they provide in-service training for our teachers. They provide counseling service for the students. They actually help the students overcome a problem once it is identified, so I don't know whether the 1 percent is good or bad. I certainly would want this committee to understand that we think that the kind of cooperation we get from the Indian Health Service at the local level is quite appropriate.

Senator MURKOWSKI. Well, you have very little familiarity, I gather, with drug abuse in the small bush areas.

Ms. GARRETT. That's right, sir.

Senator MURKOWSKI. I would like to see BIA address the concern that I have and indicate what kind of a program you would intend to proceed with, and I would like to know what kind of a time schedule you would attempt to come up with, to indicate in what timeframe you might be able to develop something.

Ms. GARRETT. I just don't have a good answer for you on that question, Senator. You know, again, we will simply have to work with the Indian Health Service at this level. As you know, we do not receive specific funding for drug abuse through the Bureau of Indian Affairs, and we will have to rely on the Indian Health Service for assistance in that whole area.

Senator MURKOWSKI. OK. Well, the record will be open on this hearing for what—10 days?—and we will supply you with some figures relative to our oversight on the extent of the problem affecting the Native communities and the heavy Native populations within our State.

Ms. GARRETT. I would remind you, Senator, and I'm sure you probably know that as of June 30 the Bureau no longer funds or participates in the education program in the State of Alaska.

Senator MURKOWSKI. I understand that, but the BIA still has a tremendous role in serving the Native people of Alaska——

Ms. GARRETT. Yes, sir. Absolutely.

Senator MURKOWSKI [continuing]. And I think the opportunity to do this through your established infrastructure is available. The

BIA personnel are there. The extent of their training capability from the standpoint of this type—you can transfer it from educational type program to an informational type program, which I think would fit into the scope of services of the BIA, so I would appreciate your recommendations on what the—I am not suggesting we start or expand the BIA capability, but utilize what we have in the funnel for educational services, addressing the area of drug abuse. I appreciate your, I guess, concern that we ought to split the two issues because they have a devastating effect but they have a different approach, and there are different motivations behind drugs as opposed to alcohol.

I thank Pete for giving me an opportunity to address the witnesses. I have no further questions.

Mr. Taylor. Senator Gorton, do you have any questions?

Senator Gorton. Thank you very much.

I have had an opportunity at least to read the staff briefing and the testimony of the people who are here, in dealing with a very difficult problem. At this point I don't have any questions. It is a challenge that this committee should direct a good deal of attention to, and it is going to do so, in order to come up with the best possible kinds of programs we can to deal with both alcohol and drug abuse. It is clear from both the comments of Senator Murkowski and some of the material that we have here, that we do not have a full grasp of the extent and nature of the problems and their relationship to one another, so this hearing and those to follow it I'm sure will help us gain that understanding.

I appreciate the testimony of these first witnesses and the others. I want to welcome Joanne Kauffman here from Seattle, who has provided me and my office constantly with the very best information on all facets of the Indian Health Program. It's nice to see you, Joanne.

Mr. Taylor. Thank you, Senator.

Madam Secretary and Mrs. Garrett, we thank you very much for your testimony. We probably will be submitting some additional questions.

Ms. Elbert. Thank you, Mr. Chairman.

Mr. Taylor. Our next panel of witnesses is from the Indian Health Service: Dr. Robert Kreuzburg, Acting Director, Indian Health Service, accompanied by Dr. Craig Vanderwagen, Acting Director, Division of Clinical and Environmental Services, and Mr. Russell Mason, Chief of the Alcoholism Program Branch.

STATEMENT OF DR. ROBERT KREUZBURG, ACTING DIRECTOR, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY DR. CRAIG VANDERWAGEN, ACTING DIRECTOR, DIVISION OF CLINICAL AND ENVIRONMENTAL SERVICES; AND RUSSELL MASON, CHIEF, ALCOHOLISM PROGRAM BRANCH

Dr. Kreuzburg. Mr. Chairman and members of the committee, I am prepared to summarize our opening statement, if permissible, rather than reading it verbatim, if that——

Mr. Taylor. That would be very satisfactory. Your full statement will be made a part of the record as if it had been read in full.

Dr. KREUZBURG. Thank you. The Department of Health and Human Services and the Indian Health Service share the concerns of the committee and the Indian communities regarding the serious problems of alcohol and drug abuse among American Indian and Alaskan Native youth. We feel the abuse of alcohol and drugs is the most serious health and social problem faced by Indian people. There seems to be evidence indicating that this abuse is directly affecting a younger and younger population, with grammar school age children beginning the use of alcohol and abuse of such substances as Lysol, glue, paint, and type correction fluid.

While we share the goal of decreasing alcoholism and substance abuse among American Indians and Alaskan Natives, we do not support the proposed bill as a means to achieve that goal. Before dealing with the bill specifically, I would like to summarize and give a background of those things that we are doing in relation to alcohol and drug abuse or, as we would like to think about it, substance abuse.

Back in 1976 there were 160 programs administered by the National Institutes on Alcohol Abuse and Alcoholism. These were subsequently transferred to the Indian Health Service and, as of 1985, we have over 219 alcoholism programs supported by the IHS efforts. These programs are through contracts between the IHS and a wide assortment of Indian tribes, tribal groups, bands, and associations that provide alcohol abuse and substance abuse prevention and treatment services.

Until recent years we have emphasized treatment services because we felt it was the intent of not only the Congress but the communities involved. Subsequent to that, about 2 years ago we began to expand and increase our emphasis on the prevention and promotion activities in these programs and, as a result of an evaluation of these programs, we have found that there is an increasing number of programs offering prevention efforts in alcohol abuse and substance abuse.

For example, most Indian alcoholism programs provide presentations on alcoholism to youth groups in communities and reservations. Program staff work with Indian leaders to provide promotion campaigns against excessive use of alcohol. They assist school and county government officials in identifying materials and resources that might change community values which reinforce alcoholism and alcoholic behavior, and it is our opinion that the community has to be involved with this issue if we are indeed going to see effective efforts carried out. In addition to these contracted programs, the Indian Health Service provides alcoholism and drug abuse services through the other funding mechanisms within the Indian Health Service, through our own IHS facilities and clinics.

There are a large number of school-based programs operated in several parts of the country. These are not operated by the Indian Health Service, however. They would be operated by those school systems either in the private community through the sister agency, the BIA, or other mechanisms. We work very closely with them, as do the contracted programs for alcoholism. These programs promote students becoming actively involved in learning effective decisionmaking skills, establishing a positive self-image, and activities which help students develop life coping skills, which we feel perhaps is the best answer to preventing alcohol and substance abuse.

Prevention activities are integrated into many Federal and State systems, we have heard from the BIA testimony, in an effort to decrease the number of teenagers who get involved with alcohol or drugs. Again I emphasize that the present feeling by most researchers is that we cannot separate any longer alcohol from other drugs; that these things are indeed all the same. The principles involved, the involvement of the people, et cetera, and why, et cetera, is the same, so we must consider them as the same.

Some primary prevention services that we are familiar with use role models very effective. As the Bureau of Indian Affairs testimony said, there are uses of puppets. Charades and plays culturally designed for alcohol and drug education have proven to be very effective. These are in place and have been in place for several years. There are other programs that we have—the parent/youth groups, teenage pregnancy counseling groups, crisis intervention, and parenting skills education. Hopefully we will address the prevention aspect of preventing young people from getting addicated to these substances.

It should be noted that the majority of these programs have primarily targeted alcohol abuse until several years ago. We interpreted congressional intent to be very clear in specifying this programmatic emphasis. Notwithstanding, alcohol abuse is part, as I have said, of the continuum of substance abuse, and many alcohol program activities have efficacy in dealing with all forms of substance abuse, and this efficacy is growing.

In regard to the specific reason why the Department does not support this proposed bill, we feel that we certainly support the intent of this bill. I think it was dramatically stated by BIA that, as a result of the efforts that this committee has already taken, our programs are looking at how they are delivering services to address the substance abuse portion of our program, so the committee's functions have already benefitted Indian people and our own programs.

The problems are such that the sort of interagency cooperation called for in the proposal is essential if meaningful success is to be achieved. In fact, we are already effecting this cooperation again at the local level, as emphasized by the Bureau, and perhaps with the central units needing further emphasis on the coordination effort. Having been at the local level over the years, indeed that is a very true statement, that the local level—school systems, tribes, and BIA—work much more effectively than as you move up towards the central level.

There are policies in place for potential contractors for alcoholism programs that require them to obtain memoranda of agreement and commitments from all applicable resource agencies in all local Indian communities, so in order to have a contract these must be in place. How effective they are could be questioned, I assume, and we haven't the evidence to prove to you today that they all are working effectively. This policy, however, should effect considerable coordination between the IHS, through the contracting program, and other interested parties and organizations. Therefore, we believe that the legislation would not be needed to ensure that kind of effort; that we already have the capability of doing that and the committee has already given us clear vision that they are interested in seeing that that happens.

In addition, the Department feels that the law contains redundant authority, in that we already have the authority through our Snyder Act, to accomplish the activities within this bill that apply to the Indian Health Service. It calls for activities at a national level which can more effectively and economically be done at the local level. It would dissipate available resources by directing them into producing national reports and studies and away from services which, in order to fulfill the requirements of some parts of the bill, it would take management people to accomplish that at a headquarters level, which then with scarce resources would take away those resources from the local delivery level. Then there are some unrealistic schedules for the reports in the bill that we reviewed.

We are already prepared, and the Secretary has initiated a letter to several Congressmen, that we would enter into a general agreement with the Secretary of the Interior to carry out the intent of this bill.

There are some other difficulties in the bill. One is in title III. Under "Family and Social Services" it mandates certain training activities, including a minimum of 2 weeks' training for new community health representatives and health aides on the problems of alcohol and drug abuse. The President's budget for fiscal year 1986 does not provide for continued funding of the CHR Program. In addition, section 301(b) requires the Secretary to provide certain training upon request to a long list of eligibles, but does not make this dependent upon the appropriation of additional funds. The Secretary could, therefore, be put in the position of appearing to refuse to provide mandated training or of having to use funds that were meant for other purposes.

There are a number of problems and inconsistencies in title V in regards to the funding issue. The requirement in section 501(a) that the President must include a funding request in subsequent budget submissions is inappropriate, in that it impinges upon the President's authority and responsibilities to determine what funding he believes should be recommended to Congress. Section 501 further complicates the situation by requiring the Secretary to report on programs established under section 501(a) without any assurance that the Congress will have appropriated implementing funds, even if the President were to recommend that funding.

The remainder of the written report covers some of the other technical questions we had about the bill and other activities that we are involved in.

For these and other reasons, we would state that although we are in harmony with the Congress' efforts to affect the alcohol and drug abuse problem in the Indian community and support these efforts, we oppose enactment of S. 1298. This concludes my statement, and we will be happy to answer any questions you may have.

[Dr. Kreuzburg's prepared statement follows:]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATEMENT ON S.1298

"INDIAN JUVENILE ALCOHOL AND DRUG ABUSE PREVENTION ACT"

BY

ROBERT KREUZBURG, M.D.

ACTING DIRECTOR

INDIAN HEALTH SERVICE

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

SEPTEMBER 18, 1985

Mr. Chairman and Members of the Committee:

I am Dr. Robert Kreuzburg, Acting Director of the Indian Health Service (IHS). With me is Dr. Craig Vanderwagen, Acting Director, Division of Clinical and Environmental Services, and Mr. Russell (Bud) Mason, Chief, Alcoholism Program Branch. I am very pleased to be here today to discuss with you and your Committee S.1298, a bill "to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth".

The Department of Health and Human Services (HHS) and the IHS certainly share the concern of the Committee and Indian communities regarding the serious problem of alcohol and drug abuse among American Indian/Alaska Native youth. The abuse of alcohol and drugs is the most serious health and social problem faced by Indian people. Alcohol abuse is frequently cited as a direct contributing factor in at least four of the top ten causes of death among Indian people, i.e., accidents, liver diseases, homicide, and suicide.

Empirical evidence indicates that this abuse is directly affecting a younger and younger population with grammar school aged children beginning the use of alcohol and abuse of such substances as Lysol, glue, paint and type correction fluid.

While we share the goal of decreasing alcoholism among American Indians/Alaska Natives, we do not support the proposed bill as a means to achieve that goal.

Before turning to a discussion of S.1298, I would like to present a brief background of alcohol and substance abuse programs among the Indian and Alaska Native people and what the IHS is currently doing in this area.

By 1976, the National Institute on Alcohol Abuse and Alcoholism (NIAAA) was supporting over 160 American Indian and Alaska Natives administered and operated alcoholism treatment programs at an annual level in excess of $16 million. The NIAAA support of community treatment grants was limited by law and Institute policies to an initial three year project demonstration period and one three year renewal. Subsequently, support for the programs was to be the responsibility of State and local funding sources. However, it was the determination of the Congress, HHS, and the Indian people through their respective tribal governments that the Indian alcoholism programs would not survive without continued Federal support. Consequently, the Congress directed the phased transfer of "mature" programs (i.e., programs which had received six years of Institute support) from the NIAAA to the IHS for continued long term support and provided the necessary authority for this transfer in the Indian Health Care Improvement Act, P.L. 94-437. Funding to support Indian alcoholism programs has been a part of the IHS appropriation base since FY 1978.

In FY 1985, 219 alcoholism programs were supported by the IHS at an annual cost of $24.607 million. The 219 programs are funded by contracts between the IHS and a wide assortment of Indian tribes, tribal groups, bands and associations that provide alcohol abuse prevention/treatment services. The IHS encourages alcoholism prevention and promotion activities with programs under contract with the IHS. The services provided by the contractors vary from program to program. The Indian alcoholism programs offer an array of treatment and prevention services through one or more of the following components: detoxification, primary residential treatment, halfway houses, outpatient care, school-based prevention, community-based prevention, drop-in centers, outreach, and aftercare.

The alcoholism programs conduct prevention activities. Most Indian alcoholism programs provide presentations on alcoholism to youth groups in communities and reservations. The program staffs also work with the Indian leaders to provide promotion campaigns against excessive use of alcohol. They assist school and county government officials in identifying materials and resources that might change community values which reinforce alcoholism and alcoholic behavior.

In addition to programs contracted out to tribes and Indian associations, alcohol abuse prevention/treatment services are rendered through 46 IhS hospitals and over 200 clinics.

School based programs are also operating in several parts of the country. They promote students becoming actively involved in learning effective decision making skills, establishing a positive self-image and activities which help students develop life coping skills. These activities also emphasize campus-wide alcohol and drug abuse intervention programs. Another example is a vocational technical training center, which includes adult students, that is coordinated with a women's halfway house. Prevention activities are integrated into many Federal and State school systems in an effort to decrease the number of teenagers who get involved with alcohol or drugs.

Examples of primary prevention services being provided in outpatient treatment centers include: health education, motivational counseling, self-awareness, values clarification, traditional counseling by elders, decision making, developing coping skills, youth leadership, and life enhancing skills.

Several of these programs use role models very effectively. The use of puppets, charades and plays culturally designed for alcohol and drug education have proven to be very effective. There are a number of programs that have parent-youth groups, teenage pregnancy counseling, crisis intervention, and parenting skills education.

It should be noted that the majority of these programs have primarily targeted alcohol abuse. Congressional intent has been very clear in specifying this programmatic emphasis. Notwithstanding, alcohol abuse is part of the continuum of substance abuse and many current "alcohol program" activities have efficacy in dealing with all forms of substance abuse. Many of the local programs capitalize on this fact to provide broadly based substance abuse services. High risk youth can be characterized in several ways. They tend to have inadequate knowledge of available community alternative activities, poorly developed or inadequate life coping skills; they demonstrate little or no interest in available organized activities such as scouting, theater, dance groups, band or other after school groups. In response to these deficiencies, special programs provide enrichment activities, work with parents, and developed recreational activities.

The Department supports the intent of S.1298 which outlines a program aimed at arresting alcohol and drug abuse among Indian youth. Juvenile alcohol and drug abuse has reached epidemic proportions in many Indian communities. The problems are such that the sort of interagency cooperation called for in the proposal is essential if meaningful success is to be achieved. In fact, we are already effecting this cooperation. There are working agreements between the Bureau of Indian Affairs (BIA) agency offices and IHS Service Units and between the IHS Service Units and local tribes in many locations. Also, since 1972 when 50 Office of Economic Opportunity funded Indian alcoholism programs were transferred to the NIAAA and an Indian Desk for Support and Liaison was established, a major funding policy was implemented which required all applicants to obtain memorandums of agreement and commitments from all applicable resource agencies in all local Indian communities. The requirement for these agreements has been continued following transfer of the alcoholism programs from the NIAAA to the IHS. They are an integral part of the management of local alcoholism programs and they effect considerable coordination between IHS and other interested parties and organizations. We believe, therefore, that new legislation is not needed to ensure such efforts.

In addition, we believe that S.1296 contains redundant authority, calls for activities at a national level which can more effectively and economically be done at the local level, would dissipate available resources by directing them into producing national reports and studies and away from services, and has unrealistic schedules for these reports.

The agreement between the Secretaries of the Interior and Health and Human Services called for in section 101 demonstrates the above points. The agreement covers a very wide scope and is to be developed in consultation with the Indian community, submitted to the Congress and published in the Federal Register all within the short span of 180 days from enactment. The agreement is to include permission for local IHS and BIA officials to enter into agreements with tribes to coordinate alcohol and drug abuse services and resources. This authority already exists for tribes under the Indian Self-Determination Act, use of which would have the additional benefit of providing the tribe with those funds that IHS has been spending on the effort. Coordination and identification of available resources are two efforts we believe are most beneficially and economically performed at the local level.

However, we have no objection to entering into a general agreement with the Secretary of the Interior. We agree with the thrust of section 101(a)(3) that BIA and the IHS should better define which agency is responsible for what services in order that the client not be bounced from agency to agency, but we do not believe legislation is required. We believe this can best be accomplished at the local level taking into account both the nature and severity of the problem and the total resource available from all sources.

We defer to the BIA on Title II - Education.

Title III - Family and Social Services, mandates certain training activities including a minimum of two weeks training for new Community Health Representatives (CHR) and health aids on the problems of alcohol and drug abuse. The President's budget for fiscal year 1986 does not provide for continued funding of the CHR programs. In addition, section 301(b) requires the Secretary to provide certain training, upon request, to a long list of eligibles but does not make this dependent upon the appropriation of additional funds. The Secretary could, therefore, be put in the position of appearing to refuse to provide mandated training or of having to use funds that were meant for other purposes.

We defer to the BIA on Title IV - Law Enforcement. However, we are not clear what is meant by the "concurrence" of the Secretary of Health and Human Services in the establishment of temporary emergency shelters nor what "temporary" means.

There are a number of problems and inconsistencies in Title V - Juvenile Alcohol and Drug Abuse Treatment and Rehabilitation. The requirement in section 501(a) that the President must include a funding request in subsequent budget submissions is inappropriate in that it impinges upon the President's authority and responsibilities to determine what funding he believes should be recommended to the Congress. Section 501(c) further complicates the situation by requiring the Secretary to report on programs established under section 501(a) without any assurance that the Congress will have appropriated implementing funds, even if the President were to recommend funding. Programmatically, section 501 sets up a program that relies only on IHS and P.L. 93-638 contractor facilities. This is at variance with other provisions of S.1298, e.g., section 502, and the current practice of identifying and relying on all available resources.

Section 503 is based on the premise of the Secretary of Health and Human Services having the sole responsibility for residential alcohol and drug abuse treatment centers for Indian juveniles. We believe this could go beyond the health related authority and responsibilities that were transferred to the Public Health Service in 1954 and could remove or cloud the responsibility of the Secretary of the Interior for the social service aspects of the overall program.

We are in harmony with the Congress' effort to affect the alcohol and drug abuse problem in the Indian community but we oppose enactment of S.1298.

That concludes my statement. I will be happy to answer any questions you may have.

Senator MURKOWSKI. Thank you, Dr. Kreuzburg.

You indicate that there is an ongoing exchange of technology or information and effort between IHS and BIA at a local level. It appears that this has not been existent at the central level.

One of the items that this bill does is go beyond just IHS and BIA, though, and provide for training of personnel in public school systems where the Indian or Native enrollment exceeds 20 percent of the student population. Is IHS involved in any such activities with public schools at this time, such as in Oklahoma and Alaska?

Dr. KREUZBURG. I don't believe we would be in direct activity in providing the training to them per se, although they certainly are welcome to come to any training that we might put on. We also are involved in attending training put on by the public schools on a reservation, and we work as the health arm of that public school on the reservation, so there is contact but it is not the formal, authoritative approach that this bill would permit.

Senator MURKOWSKI. I don't think that the question of Alaska was necessarily answered, where we don't have reservations. What are you doing there?

Dr. KREUZBURG. It is my assumption that in the Alaskan village that has a public school, we would be working with that school as their health arm and thus indirectly be involved with training of their staff. I don't know that IHS as a Federal agency would want to assume authority over a State-run school system.

Senator MURKOWSKI. If I may interject here with a few questions, Pete, the trust responsibility to the Native peoples is a continuing function of the BIA/IHS. Correct?

Dr. KREUZBURG. Yes, sir.

Senator MURKOWSKI. Regardless of the role of the State in the educational process, which is a role that is available in my particular State to all Alaskans, Native and non-Native alike, I think for the sake of this discussion we can make that assumption that everybody is created with the same educational opportunities, informational opportunities, whatever the State system may provide. I am concerned specifically, though, about the trust obligation extending specifically for the benefit of the young Natives within Alaska, more particularly in the isolated bush areas.

My question is, do you have a program relative to information, or you can call it education or whatever you want, specifically designed to address the questions of alcohol and drug abuse? My second question is, do you feel that the two should be taken as a simultaneous information effort or they should be separated, and more specifically details about the role of IHS in carrying out the dissemination of this information.

Dr. KREUZBURG. The answer to the first question is that I cannot tell you that we have a specific health education program in a specific village in the school system. However, we have had over the years within our own health system a health education dissemination process on alcoholism and drug abuse, so that I would say that the answer is, we do not have a formal education system for those two, alcohol and drug abuse, in the school system in a village.

Senator MURKOWSKI. How about in the community? If it is not in the school system, is it available through your offices?

Dr. KREUZBURG. We have promoted training and education on alcohol and drug abuse in most of our communities through that outreach effort of the Indian Health Service—through community health nurses, community health representatives, our own physicians.

Senator MURKOWSKI. Are they trained? What happens when you identify drug abuse in a bush community?

Dr. KREUZBURG. What would happen if we discovered a young person with drug abuse?

Senator MURKOWSKI. Is there a referral situation, a setup, procedure, is there a trained——

Dr. KREUZBURG. There should be in place a referral system out in the small village where we have a community health aide who does receive basic training in caring for the people of that community. That community health aide, then, suspecting drug abuse or alcoholism, would indeed have the referral mechanism to transfer that patient, if necessary, or obtain information from a referral source of greater expertise, which would be probably in the hospital at the larger community. From that referral system, then, they can on into Anchorage, for example, and receive whatever treatment they would need that can't be provided through the system, so we do have a referral system.

The other question you asked, though, is also involved in this, that is, drug abuse itself. We said in our opening statement that the major effort has been towards alcohol abuse. The reason for that was quite clear to us, that we felt that was the intent of the Congress and the Indian communities at that time. Now it's quite clear that, in the recent conference at the NIH, you really shouldn't be separating alcoholism and drug abuse as a health issue.

If you're talking about control and preventing the appearance of drugs into a community, as compared to the appearance of alcohol, that's a law enforcement issue that I'm not too familiar with. The evidence in health seems to indicate that we should deal with this as a unified thing because normally, in most cases you will find that they aren't abusing just one. They are abusing alcohol and drugs, and so to try to separate them from a treatment or prevention perspective probably would not be the most effective way to go.

Senator MURKOWSKI. I would like some information specifically provided in detail what programs you have that are current, that are implemented, that are ongoing, to address both issues collectively if you wish. You know, we have a population of about 60,000, a little over 60,000 Alaskan Natives and, between the BIA and the Indian Health Service, personnel of about 2,600. That constitutes about 4.5 to 5 percent of the total Native population in the State, so the human resource to disseminate services is there, but when I am told you that you are earmarking less than 1 percent of your budget in this area, I find that inadequate.

That would be my next question: Do you feel that your expenditures and programs in this area are reasonable in relationship to your overall budget priorities?

Dr. KREUZBURG. The total budget, just for our alcoholism programs alone, is $24 million, which is greater than 1 percent of our total budget. If you include those activities in the other line item budget categories, I think it does go higher than 1 percent of our total budget.

I would say that there probably never will be enough available resources to cover the unmet need in any health system throughout the country.

Senator MURKOWSKI. Well, I don't know how you allocate those funds, but in our State I'm told that it amounts to 1 percent of your total budget, which is $120 million.

Dr. KREUZBURG. For Alaska?

Senator MURKOWSKI. That's correct.

Dr. KREUZBURG. Oh, I'm sorry. I misunderstood you. They get $1,542,000 in alcoholism program money only.

Senator MURKOWSKI. Well, they don't get anything in drug abuse, so I assume it includes both alcohol and drug abuse. That's 1 percent of the budget in Alaska, and that's the biggest problem—it's not only Alaska's biggest non-Native abuse problem, it's Alaska's biggest Native abuse problem, and it seems to me the allocation of funding is totally disproportionate to the priority. I've got to assume that the same thing is true among Natives outside Alaska.

Do we need less people in the IHS and BIA and more effort in eliminating or educating on the program—eliminating accessibility or educating on it? Then we're not even talking about the carrying costs of those who are addicted or become a burden to society and Government. I just wonder, do you feel there is a crisis in this area among America's Native community, on drugs and alcoholism?

Dr. KREUZBURG. Yes. I think we have been on record that this is the most serious problem. In order to address the distribution percentage-wise of resources that we have, we would have to redistribute the existing resources we have, essentially looking at the epidemiology and making hard choices as to what services we will take the funds from to redirect towards the effort to address this serious problem.

Senator MURKOWSKI. Well, if it's your primary problem, what was your No. 1 problem before this was your primary problem?

Dr. KREUZBURG. Probably infant mortality.

Senator MURKOWSKI. Well, maybe you should move funding from infant mortality over to drug and alcohol abuse. I don't know but it would seem to me that if this is your priority now and is your problem, it should have a greater commitment of your funding.

Dr. KREUZBURG. I would say we are in the process of exploring just what you are raising and looking at those priorities and seeing, within the available resources we have, how we can better reach the objectives of decreasing alcoholism and drug abuse.

Senator MURKOWSKI. You know, we have situations where Native arts and crafts producers are selling valuable ivory for a half ounce of marijuana because they have become addicted, and if it isn't marijuana it's whatever is available—cocaine, heroin, it doesn't make any difference. We have seen instances in villages of 1,100, 1,200 people where drugs come in, they are distributed, and the reaction is absolute chaos. It's an unbelievable situation. Children suffer.

There is an element that has to combat that, and that is the question of adequate enforcement to cut down accessibility, but by the same token there has to be, I think, a much greater effort on the awareness application. We had Attorney General Edwin Meese testify at a Foreign Relations hearing on international drug trafficking which I chaired last week, and the question of the Federal Government expending funds on education at that critical area of younger people who become exposed to drugs and make significant decisions. That is the key point.

I am sensitive to a perception, based on my own observations within my own State and information from various Native acquaintances and leaders, that this exposure in Alaska's communities, particularly the smaller areas, is not being adequately addressed by the Federal agencies responsible for the trust obligation, and that obviously rests with the Indian Health Service and certainly to a degree, through oversight, the Bureau of Indian Affairs.

As a consequence of this hearing, I would like to know what your intentions are to reprioritize those areas that you feel have constituted perhaps a change in priorities, as you suggested, whether you move from the area of infant mortality and move into this current crisis, which you have indicated is a crisis. I would also like to have for the record a submission of just the details of what your programs are because, while I may sound regional in my question, I think the application is uniform to America's Native community.

Dr. **KREUZBURG**. We will be most happy to provide that for the record.

[In response to Senator Murkowski's request for additional information, Dr. Kruezburg furnished the following response:]

RESPONSE RECEIVED FROM DR. KRUEZBURG

INDIAN HEALTH SERVICE ALCOHOLISM PROGRAMS IN ALASKA

Currently in Alaska, the IHS has 13 alcoholism program contracts with a funding level of $1,542,980 serving approximately 75 rural and urban communities. All 13 contracts have outreach components with 11 being specific contracts for outreach services. These components provide a community service designed to reach into the community and identify individuals and/or families presently in need of intervention and treatment. Intervention in the early stages of involvement is stressed, information about community resources is provided and entry into treatment is facilitated through motivational counseling, referral, and transportation.

Outreach programs seek to serve three target populations in the community: (1) community members who may through greater knowledge and awareness assist in the reduction of alcohol and drug use and abuse; (2) specific high risk community population groups, such as youth and women; and (3) individuals and families who may be experiencing early stage problems related to inappropriate alcohol and/or drug use. Outreach programs are the bridge between prevention activities and contact with the treatment continuum of care.

One contract provides, in addition to outreach services, detox and primary residential treatment. These components are defined as follows: (1) Detoxification Units (detox) are facilities where individuals who are under the influence of alcohol and at high risk for physical or emotional damage as a result of withdrawal are admitted for the purposes of undergoing withdrawal. Staff in these facilities are trained to provide several functions: (a) monitor the physical and emotional status of the individuals during withdrawal; (b) identify withdrawal symptoms that are potentially life threatening; (c) make appropriate medical referrals, and (d) provide motivational counseling to facilitate the problem drinker's entry into a treatment program for behavior change and the development of life skills. This service is not designed for those individuals who have concurrent health problems which require immediate attention; (2) Primary Residential Treatment (PRT) is a non-medical, residential intensive treatment program designed to facilitate the rehabilitation of the substance abusing individual by placing the client in a highly structured therapeutic environment. The therapeutic environment of the PRT is a short term (generally 28–30 days), highly structured program including diagnostic services, individual and group counseling, alcohol education, psychological self-awareness, decison-making skills development and building self-esteem. The PRT provides group support sessions, and cultural, social and recreational programs within the therapeutic environment.

One other contract, in addition to outreach, provides outpatient and community prevention services. These are defined as follows: (1) Outpatient care is a non-medical, non-residential alcohol treatment program for individuals and families who are functional but in need of therapeutic and supportive counseling and referral services while living independently. The outpatient care program provides diagnostic services, therapeutic intervention, individual, peer and group counseling, and referral to appropriate resources. A rehabilitative plan tailored to needs of clients is negotiated and developed upon intake. The individual treatment plan is implemented to facilitate the development of new life skills and to eliminate alcohol-substance abuse and other destructive behavior; and (2) Community-based prevention programs may assume a variety of appearances. Chief among these are programs which target individuals within the community who are at risk of developing problems related to the use/abuse of alcohol and programs designed to change the pattern of control over beverage alcohol so that community control may become more effective in preventing and reducing drinking problems.

The attached is the budget and service components breakdown for each program.

INDIAN HEALTH SERVICE PLANS TO REPRIORITIZE RESOURCES FOR ALCOHOLISM

At the direction of the Director, IHS, a comprehensive program appraisal of the IHS efforts to address the problem of alcohol abuse and alcoholism affecting American Indians and Alaska Natives was undertaken in fiscal year 1985 at all levels of operation. The purpose of the review was to accomplish the following: (1) define the scope of alcoholism treatment and prevention efforts at the tribal as well as IHS Service Unit, Area, and Headquarters administrative levels; (2) identify existing program strengths; (3) identify those unique programmatic approaches in various locations that warrant broader application; (4) identify deficiencies that may exist in the overall alcoholism program; (5) set forth action steps appropriate to addressing any deficiencies; and (6) make recommendations regarding the mission and future directions of the IHS alcoholism program effort.

The plenary session of the review has been completed with 178 recommendations made by tribal and Alaska Native representatives. These recommendations are presently being synthesized into a plan of action that will be submitted to the Director, IHS. It is planned to include in the report a discussion of the possibilities of reprioritizing the IHS program budget to address the alcohol and substance abuse problem as it affects all age groups among American Indians/Alaska Natives.

SUMMARY OF IHS FUNDED ALCOHOLISM PROGRAMS
BY SELECTED VARIABLES, FY 1985

ALASKA AREA/PROGRAM OFFICE

PROGRAM	CATEGORY & LOCATION	COMPONENTS	FUNDING AUTHORITY AND INSTRUMENT	FUNDING AMOUNT 1/	PERCENT INDIRECT 2/ COSTS CHARGED TO CONTRACT
Aleutian-Pribilof Island Assoc.	Rural Anchorage, AK	Outreach	P.L. 93-638 Contract	$ 117,606	18.1%
Bristol Bay Health Corporation	Rural Dillingham, AK	Outreach	P.L. 93-638 Contract	117,606	17.9%
Cook Inlet Native Assoc.	Rural Anchorage, AK	Outreach	P.L. 93-638 Contract	71,985	23.0%
Copper River Native Assn.	Rural Copper Center, AK	Outreach	P.L. 93-638 Contract	117,606 116,000 (E)	27.6%
Fairbanks Native Association	Urban Fairbanks, AK	Detox PRT Outreach	Buy Indian Contract	292,380	0.0%
Maniilaq Alcohol Program Assoc.	Rural Kotzebue, AK	Outreach	P.L. 93-638 Contract	5,998	44.0%
Metlakatla Indian Community	Rural Metlakatla, AK	Outreach	P.L. 93-638 Contract	82,472	15.4%
North Pacific Rim	Rural Anchorage, AK	Outreach	P.L. 93-638 Contract	6,224	26.0%
North Slope/ Inupiat Burrough	Rural Barrow, AK	Outreach	Standard Cost Reimbursement Contract	71,985	15.1%

SUMMARY OF IHS FUNDED ALCOHOLISM PROGRAMS BY SELECTED VARIABLES, FY 1985

ALASKA AREA/PROGRAM OFFICE

PROGRAM	CATEGORY & LOCATION	COMPONENTS	FUNDING AUTHORITY AND INSTRUMENT	FUNDING AMOUNT 1/	PERCENT INDIRECT 2/ COSTS CHARGED TO CONTRACT
Southeast Alaska Regional Hlth. Corp.	Rural Juneau, AK	Outreach	P.L. 93-638 Contract	$ 72,582 21,000 (E)	21.0%
South Kachemak Alcohol Program	Rural Seldovia, AK	Outreach	P.L. 93-638 Contract	146,789	0.0%
Tanana Chiefs Conference Inc.	Rural Fairbanks, AK	Outreach Outpatient Comm. Prevention	P.L. 93-638 Contract	153,632	34.5%
Yukon-Kuskokwim Health Corp.	Rural Bethel, AK	Outreach	P.L. 93-638 Contract	149,115	42.1%

NOTES:
(E) Denotes Equity funded Alcohol Programs.
1/ Funding amount for FY 1985 includes 3.5% increase to base, except some Equity programs.
2/ Indirect cost rate dollar amount varies, depending on negotiated base used in computation; some programs compute indirect only against salary and fringe, while others levy indirect costs against total direct costs.
3/ Denotes programs which use a portion of their funds to purchase inpatient residential care for their clients.
4/ Denotes programs which, while reservation-based, serve multiple tribes or tribes in more than one state.

Senator **Murkowski**. Well, I guess I am not quite satisfied with my line of questioning, which is my own fault, and your response to the crisis. I see this is a kind of a continuing, "Well, you know, we are addressing it but we don't really have any strong commitments to reprioritize," or "Yes, it's part of the ongoing information system distributed by IHS but, you know, it's one of those problems that will be with us for a while, so we'll do the best we can." I think it needs a more imaginative approach. What do you think?

Dr. **Kreuzburg**. I think that if I have left you with that impression I have made an error, because I personally and the IHS believes in the intent of this bill which you are supporting. Yes, this is a priority for us. I think the fact that this committee has held a hearing on the bill itself has emphasized to the Indian Health Service, as a Federal agency, how important you all hold this. That in itself will permit us to increase our efforts in this regard.

I think there have been numerous activities that have occurred prior to the formation of the bill over the last 3 years to do exactly what you're asking. We have frequently gone on record that we need to spend more money on prevention than in treatment. We have done a review of our alcoholism program, as mandated by the Director of IHS in May. This review is arriving at the same conclusion that the committee has arrived at, that this should be a greater priority.

There are activities going on within the Indian Health Service on looking at the complete way that they distribute the resources provided to us, based on some epidemiological facts, of which this will then indeed be the evidence that this is a priority. We have already gone on record that, if additional resources were provided, alcoholism and drug abuse and substance abuse would have priority. I didn't mean to indicate that we are not doing anything. I think we are, and I personally feel that the interest of this committee will provide more impetus to accomplish that faster.

Senator **Murkowski**. Well, you speak for the administration and the administration's voice on Indian Health Services, right?

Dr. **Kreuzburg**. Yes, sir.

Senator **Murkowski**. Which was vetoed last year, right?

Dr. **Kreuzburg**. The 437 bill was vetoed, yes, sir.

Senator **Murkowski**. OK, and the administration, through various spokesmen, has indicated that there are other priorities. Didn't they want to shift Indian health funds for research on AIDS?

Dr. **Kreuzburg**. Yes, sir.

Senator **Murkowski**. Well, I am not going to question the priority of what AIDS may be, but the reality that to pull away from programs and funding where you have just indicated your priorities are for something else, it would seem to me that the two issues should stand on their own and you shouldn't pull one from the other, but yet that was done, wasn't it?

Dr. **Kreuzburg**. Yes, sir. It was recommended to be done. Yes, sir.

Senator **Murkowski**. Well, did you agree with that recommendation?

Dr. **Kreuzburg**. We support that recommendation as speaking for the administration, yes, sir.

Senator **Murkowski**. Well, I wouldn't support it at the expense of Indian Health Service funding. How do we—I guess it's congressional dictate that indicates where you put your priorities. I mean, why doesn't whatever research we are going to pull from other sources with regard to assisting AIDS research come from an increased Public Health Service budget? Why at the expense of Indian health?

Dr. **Kreuzburg**. I think that issue and decision by the Secretary is under review and question as to the final decision on that.

Senator **Murkowski**. Pete, did this committee take a position and communication to the Secretary its attitude with regard to reducing the Indian Health Service budget?

Mr. **Taylor**. Senator, I understand we may have in the Interior Appropriations Subcommittee. The request of the administration was directed to the chairman of the Interior and Related Agencies Subcommittee and its companion on the House side.

Senator **Murkowski**. Well, I would suggest that, with the approval of the chairman, you give some thought to considering a communique indicating that with a change of priorities by IHS, if indeed that is a change from infant mortality to drug and alcohol abuse, that we as a committee unanimously object to any reduction when there is a new priority and a new crisis before us.

Do you have any objection to that?

Dr. **Kreuzburg**. No, sir.

Senator **Murkowski**. Would you support that committee action?

Dr. **Kreuzburg**. The administration would take it under advisement and consider it.

Senator **Murkowski**. Well, I think first of all, though, you have to make sure that you agree what your priorities are. If you agree that you have got a crisis, then you've got a responsibility to address that crisis, and I don't see how you are going to address it if you willingly agree to allow them to pull your funds to address the crisis for another crisis that exists in the country. You know, we can help each other on that. That's why we are both here. I recognize that to be a member of the administration, you have to support the administration, but by the same token you are not going to address your crisis at IHS in alcohol and drug abuse unless you've got adequate funding.

So I think we have had a good discussion for the record on the priorities here, and we will look forward to your response on what your current programs are.

I see my colleague, the Senator from South Dakota, who is more eminently qualified on American Indian affairs than I am. My qualifications are more limited to Alaskan Indian affairs than here. Pete, I have no further questions to ask.

I appreciate your candid response and I understand the limitations that you have to operate under, but hopefully I have been able to bring out some points that you might even agree with.

Dr. **Kreuzburg**. Thank you, Senator.

Senator **Murkowski**. Thank you.

Senator Abdnor, do you have any questions?

Senator **Abdnor**. I really have to pick up some loose ends here. I do have a great interest in the problem we are dealing with here. Hopefully, we are attacking it with the legislation we have before us. Another drug and alcohol program which, hopefully, will be helpful to our reservation is a foundation I am creating, working with students in high school and grade school. So, I do have a keen interest in this. I am here to listen. Thank you.

Mr. **Taylor**. I do have three or four questions that I would like to ask as a follow-on.

First, the Indian Health Service currently has an alcoholism office, and in fact, Mr. Mason, I think you are the chief of that office. I understand you have a total of 18 employees in that office that would cover not only central but also area or agency levels. Is that an accurate figure, 18 employees?

Mr. **Mason**. About 16 employees.

Mr. **Taylor**. Sixteen. Could you describe what the responsibilities are of your office? Does it extend beyond alcohol into drug abuse problems?

Mr. **Mason**. The responsibility of the office is primarily to administer and coordinate the activities of the local programs and, when possible, provide technical assistance. Each area has one area alcoholism coordinator who has the responsibility there to administer our programs. The programs vary from 1 program or 2 programs, say, in the Tucson program area, to as much as 37 programs in the Portland area, so we have one person who has that responsibility to have oversight and administer those programs, as well as provide technical assistance and training.

Mr. **Taylor**. Are they in charge of liaison between the BIA and IHS at the local level?

Mr. **Mason**. Most of the liaison activities go on at the local level.

Dr. **Kreuzburg**. To clarify "local level," I think we have been talking in terms of the service unit level as compared to an area level. I think if you talk area office we probably would have been talking more of a central level, so in the discussion at least my interpretation of what the BIA said and we would be saying, really "local" means at that service unit level or where the school system, school board is rather than at the area level.

Mr. **Taylor**. Well, my sense from the testimony of BIA and I think also from Indian Health Service has been that the coordination seems to have developed initially at the local level and is slowly working its way up. Did the coordinators come into place after the coordination got started or before?

Dr. **Kreuzburg**. The point I think I am making is that the coordination at the area level with the Bureau probably is not as good as it should be, either, and that those coordinators are more active with the actual delivery of health services by those contracts on Indian tribal groups than in liaisoning with other agencies.

Mr. **Taylor**. Dr. Kreuzburg, you indicated, in response to one of Senator Murkowski's questions, that HHS had sent a letter to some Congressmen concerning an intent of the Secretary of the HHS to enter into an agreement with the Secretary of the Interior. I don't think a copy of that letter ever came to our committee or Senator Andrews. I wonder if we might get a copy of that letter for the record?

Dr. **Kreuzburg**. We certainly can provide that.

Mr. **Taylor**. Could you tell me how many Congressmen that letter was sent to?

Dr. KREUZBURG. It was to John McCain, chairman, Republican Task Force on Indian Affairs, House of Representatives.

Mr. TAYLOR. What was the date on that letter?

Dr. KREUZBURG. July 29, 1985, and there it says: "I have no objection, however, to entering into a general agreement with the Secretary of the Interior. * * *"

Mr. TAYLOR. I think if we could have a copy of that, that would be helpful.

[Correspondence in regard to the above dialog follows:]

NINETY-NINTH CONGRESS

MORRIS K. UDALL, ARIZONA, Chairman

[illegible]

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

STANLEY SCOVILLE
STAFF DIRECTOR
AND COUNSEL

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AND COUNSEL

LEE McELVAIN
GENERAL COUNSEL

RICHARD AGNEW
CHIEF MINORITY COUNSEL

June 20, 1985

1985 JUN 25 P 3:59

The Honorable Margaret M. Heckler
Secretary of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mrs. Secretary:

Alcohol and drug abuse is a serious problem across the Nation, costing us billions of dollars in treatment and lost productivity. We, the members of the Republican Task Force on Indian Affairs, would like to request that you take a personal and Departmental interest in one segment of this growing problem -- the epidemic abuse of drugs and alcohol among juvenile members of Indian tribes.

The Committee on Interior and Insular Affairs has been holding Field Hearings on two bills which address this problem: H.R. 2624, introduced by Congressman McCain, and H.R. 1156, introduced by Congressman Bereuter. Both bills are aimed at preventive measures which we believe will strengthen the unique governmental relationship between tribes and the Federal government.

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The problems among our American natives are pervasive with high unemployment, poor housing, inadequate health care and the perception of little or no hope on the reservation. Unfortunately, too many of our Indian youth resort to drug and alcohol abuse. This is not limited to beer and marijuana, but also the use of inhalants like gasoline, sterno and even household items such as Lysol spray.

From the Field Hearings it is clear that the drug and alcohol abuse on or near Indian reservations has reached epidemic proportion. We believe the best immediate hope for the future of the Indian peoples is to focus existing Federal programs at the juvenile populations of these peoples.

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Indian population growth has been double the national average, to a point where on some reservations such as on the Navajo, 50% of the population is under the age of 18 years. This is a vast resource that must not be lost to alcohol and drug abuse. The Indian Health Service has estimated that it costs the government approximately $20,000 to treat an alcoholic person in need. It would be much more effective to provide preventive treatment to our Indian youth. However, actions must be taken soon. Depending on the reservation or tribe it is estimated that between 20 and 60% of the on-reservation youth already have a serious alcohol and/or drug problem. Many of these juveniles are 4th generation alcoholics. Crime, suicides, child abuse, sexual assault, and others associated symptoms are also alarmingly higher than the national average.

We believe the Snyder Act provides you with the necessary authority to use existing programs and funding throughout the Department of Health and Human Services for Indian juvenile programs. Specifically, we request that you consider implementing the following:

- o Enter into a general agreement with the Secretary of the Interior outlining procedures for local Indian Health Service units to enter into working agreements with local Bureau of Indian Affairs agencies and Indian tribes, for the coordination of their respective efforts;
- o Establish responsibility within the Department for analyzing and correlating the approximately 720 existing Federally-financed studies on Indian alcoholism; to formulate a scientific baseline for juvenile programs;
- o Coordinate existing treatment programs and grants of the Alcohol, Drug Abuse and Mental Health Administration with the Indian Health Service, to focus resources on an Indian juvenile program;
- o Provide a Departmental analysis of H.R. 2624 and H.R. 1156, so that we as legislators may address this issue with your participation.

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We believe that immediate attention must be given to the problem of Indian juvenile alcohol and drug abuse. We are looking to your leadership within the Administration to assist us in finding a solution to preventing another generation of our Indian youth from drug and alcohol abuse.

Sincerely,

John McCain
John McCain
Chairman
Republican Task Force on
Indian Affairs

Don Young
Don Young
Ranking Republican Member
House Committee on Interior
and Insular Affairs

Bob Lagomarsino
Robert Lagomarsino
Member of Congress

Ben Blaz
Ben Blaz
Member of Congress

Barbara Vucanovich
Barbara F. Vucanovich
Member of Congress

Mike Strang
Michael L. Strang
Member of Congress

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

JUL 29 1985

The Honorable John McCain
Chairman
Republican Task Force on Indian
  Affairs
House of Representatives
Washington, D.C.   20515

Dear Mr. Chairman:

Thank you for your letter regarding concerns of the Republican Task Force on Indian Affairs about the "epidemic abuse of drugs and alcohol among juvenile members of Indian tribes." Certainly we share your concerns about this very serious health problem among Indian youth.

Your letter suggested that the Department of Health and Human Services (DHHS), through the Indian Health Service (IHS) units, enter into working agreements with local Bureau of Indian Affairs (BIA) agencies and Indian Tribes, for the coordination of their respective efforts. I would like you to know that working agreements between the BIA agency offices and IHS Service Units and between the IHS Service Units and local tribes are already in existence in many locations.

I have no objection, however, to entering into a general agreement with the Secretary of the Interior and will ask the IHS to develop an appropriate document for this purpose. Furthermore, since 1972 when 50 Office of Economic Opportunity-funded Indian alcoholism programs were transferred to the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA), National Institute on Alcohol Abuse and Alcoholism (NIAAA) and an Indian Desk for Support and Liaison was established, a major funding policy was implemented which required all applicants to obtain memorandums of agreement and commitments from all applicable resource agencies in all local Indian communities. The requirement for these agreements has been continued following transfer of the alcoholism programs from the NIAAA to the IHS. They are an integral part of the management of local alcoholism programs and they effect considerable coordination between IHS and other interested parties and organizations.

You have also suggested that the DHHS should correlate existing Federally financed studies on Indian alcoholism to formulate a scientific baseline for juvenile programs. The IHS Alcoholism Program Branch has responsibility for accomplishing such an analysis and correlation and the process has begun. The National Clearinghouse for Alcohol Information has provided copies of related documents and a list of references to facilitate this work.

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Your letter further suggested that ADAMHA coordinate existing treatment programs and grants with IHS to focus resources on an Indian juvenile program. The IHS and the ADAMHA/NIAAA have coordinated their efforts closely for some time. However, under terms of the Alcohol and Drug Abuse and Mental Health Services (ADAMHS) Block Grant, only Indian tribes and tribal organizations which had been receiving alcohol or drug abuse treatment grants or contracts directly from the Department in Fiscal Year 1980 are eligible to apply for direct funding for alcohol or drug abuse treatment and prevention services through the block grant mechanism. Eligible tribes may choose to apply for block grants or for direct services funding through the IHS. As of the end of June, the vast majority of tribes and tribal organizations have chosen funding from the IHS. Of the Indian organizations that are eligible, only two have elected to receive funding from the ADAMHS Block Grant. The ADAMHA also continues to support research into alcohol, drug abuse, and mental health problems of American Indians and Alaska Natives as part of its overall research portfolio concerning minority health problems.

The Department supports the intent of legislation which would initiate a program aimed at arresting alcohol and drug abuse among Indian youth. We agree that the interagency cooperation called for in H.R. 2624 and H.R. 1156 bills is essential if meaningful success is to be achieved. In fact, we are already effecting this cooperation. We believe, therefore, that legislation is not needed to ensure such efforts. We do oppose Sec. 2 of H.R. 2624 which would provide for statutory establishment of an Office of Alcohol and Drug Abuse with a mandatory organizational structure. The placement of administrative responsibility for program efforts and the establishment of an organizational structure for carrying those efforts forward are better handled by departmental management staff closest to the problem. We believe that these management staff know best how to channel funding and staff resources to obtain the most effective and efficient results.

I appreciate your continued interest in the Department's Indian substance abuse programs. A similar letter is being sent to each Task Force member.

Sincerely,

Margaret M. Heckler

Margaret M. Heckler
Secretary

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Mr. TAYLOR. What is the current training given to Indian Health Service employees in the area of alcohol and drug abuse, those employees who actually have patient contact?

Dr. KREUZBURG. This training has been episodic over the years. If a health provider such as a physician felt, and his supervisors felt, that he needed more training in that area, he could take continuing education that was offered outside of the Indian Health Service by national education organizations. It has been episodic and not as coordinated as it should be; 2 years ago, recognizing that fact, the chief medical officer of the Indian Health Service requested that we develop a training package for health care providers. We have been working on that package for over 2 years through involvement with consultants from outside the Indian Health Service on the quality and quantity of that material. This plan now is at the point where we have identified funds by which we hope to implement it in the first quarter of 1986. We are down to picking the sites, so we had, in fact, addressed that issue 2 or 3 years ago.

Mr. TAYLOR. Are these pilot programs?

Dr. KREUZBURG. Not really. We are planning to build it around other types of training programs that have been very effective in our health delivery system, for example, the Pharmacy Training Program. The Continuing Education Center in Phoenix has been working on this and it is past the stage of a demonstration, although we certainly will have the post review and alter it as indicated. As you take the training program to the service units—the goal is to take it to the smallest unit that is cost effective—you are going to get ideas and concepts from that staff that will make it even better. It's a program to reach out into the community where the health providers are rather than bringing them to a central place.

Mr. TAYLOR. What critieria do you use in choosing the particular sites where you are going to initiate this?

Dr. KREUZBURG. Our goal would be eventually to cover all of our facilities, including the tribally contracted ones, because alcohol and drug abuse is all-invasive of all areas.

Mr. TAYLOR. It appears that at the outset, at least, you won't be serving all of your selected areas, so what criteria are you using to establish priorities? Is it in areas that has an identifiable excessive problem?

Dr. KREUZBURG. We certainly would have to look at the mortality, the morbidity from the substance abuse—alcohol and drugs. If we could not provide it to all, we would then make decisions based on that judgment, where we would get the most benefit for the people who need to be served. If I have only 1 patient in one place and 10 in another, I obviously would try to direct most of the resources to the 10 and maybe travel the person that only has 1.

Mr. TAYLOR. Does IHS have existing statistics on morbidity or health-related problems springing from alcohol from its various areas or service unit areas, so that you could pinpoint locations that are in greater need than others?

Dr. KREUZBURG. We have data. However, I would not want the committee or IHS to look at that data and make firm decisions on allocation of resources based on that data, because the data only identifies people that get to us. When you're dealing with alcohol and drug abuse, you're dealing with people who don't come to the health provider. If we really want to make an impact we've got to get to the person before he gets to the health provider. That's why the education component of this bill is so important. If we are going to prevent the long-term effects of alcohol and drug abuse, we have to get to the ones who we don't have the data on to show you.

The other is that when you look at data and you ask, "Tell me how many 15-year-olds have alcohol abuse," the real issue is, "How many 30-year-olds have died of alcohol," because it's a 20-year problem. What we really are looking at and we have looked is that at the age of 30 the rate of death goes from 3 percent to 24 percent, or 3 per 1,000 to 24 per 1,000.

So yes, we have data. We have looked at it, we have analyzed it, but you can't just look at the juvenile data itself. You have to expand that to what the impact is because the major morbidity and mortality is in the 24 to 35 age group, not in the teenager at 15. The problem with the teenager is, he is starting it, and that's what we want to prevent.

Mr. TAYLOR. Then a high incidence of medical problems in a particular area might suggest that the youth in that area is particularly susceptible to following in the role model that has been established.

Dr. KREUZBURG. Yes, and there are marked differences in the way communities drink, across not only Indian communities but non-Indian communities, also. That information has been looked at extensively.

But there are differences of drinking patterns. Therefore, your number of people would be greater in one community than another. This is especially true with pregnant women, and we have some data that show that.

Mr. TAYLOR. Doctor, I have two other questions that I would like to ask and then we can move on to our other panelists.

Senator ABDNOR. I know you want to get your questions, Mr. Taylor, but I failed to say that I held two major hearings over the August recess out in South Dakota, one in Rapid City and one in Sioux Falls, on alcohol and drug abuse, especially with high school and younger ages. In both of my hearings, which were bona fide hearings under the Appropriations Committee which I chair. We had Indian health representatives.

Often we don't like to admit we have a problem out in South Dakota. Apparently this is pretty common to more of South Dakota than just the reservations. Alcohol is more of a problem out there by far, from what we could see, than the drug problem. But I know for the Indian people that it is a very, very serious problem. Whether you go to a contract school or any other type of school, a lot of work needs to be done. The sooner we get with it the better. Pilot programs are fine, but this is something that we should have been attacking a long, long time ago and we are just kidding ourselves if we think it's going to go away.

My interest goes very deep in this, and I am going to be pursuing it beyond the reservations. I am going to be holding a high school conference in South Dakota on alcohol and drug abuse, that will bring in kids from these other schools, too. I hope kids working with kids will have some great results, but I hope we can fit it in the overall program because there is a problem out there, and the sooner we admit it and recognize it and get on with it and quit kidding ourselves, the better off we will all be.

I hope we are really going to get into this program and this legislation with a great deal of sincere, earnest desire to get it enacted. I just want to make that point.

Mr. **Taylor**. Thank you, Senator. I do have one last question and then I think we'll take a break before we go into our next witnesses.

I understand that the treatment for drugs such as pills or marijuana is very different from the treatment for alcohol abuse and different from treatment for inhalant abuse. Could you expound upon that?

Dr. **Kreuzburg**. Yes, I think the treatment is different. That is very true. If you have a drug abuser, you have to treat that patient differently, with different medications, different approaches, than you would an alcohol abuse, so the statement is true that the treatment is different.

Again, though, the recent evidence just at the conference at NIH is indicating that the reason a person would start being involved in alcohol and hard drugs and other drugs is the same. There has been a study that was done in Colorado, a 10-year study, that seemed to indicate that you can identify the high-risk child who will become involved in that and the mixture, so that identification is the same. The prevention probably may be the same, but the treatment is very different depending on the substance being abused.

Mr. **Taylor**. Are there special training programs for IHS physicians or medical practitioners to apprise them on how to go about treating these different problems related to alcohol and drug abuse?

Dr. **Kreuzburg**. Not a formal training program, other than the one which we are in the process of developing, that is, treatment of substance abuse. It is not just alcohol; it is substance abuse. The education system for training physicians and health providers in these areas probably is less than adequate to meet the need that we have. It hasn't kept up with the obvious problem that we have.

Mr. **Taylor**. Is the education program, by the way, essentially coordinated or developed through the Alcoholism Program Branch?

Dr. **Kreuzburg**. The education program is a coordinated effort between the alcoholism branch, mainly the funding resources came from there, and the expertise. The actual development of that program is what we would call the program side, funded through the hospital and clinic budget through our Clinical Support Center where the continuing education center is, so it's a joint effort of providers and alcoholism experts.

Mr. **Taylor**. I have no further questions.

Senator Abdnor.

Senator **Abdnor**. No.

Mr. **Taylor**. Thank you very much. We will perhaps have some additional questions that we can forward down to the agency, but thank you very much for your testimony.

Dr. **Kreuzburg**. Thank you.

Mr. **Taylor**. We'll take a 5-minute break at this point.

[Recess taken.]

Mr. **Taylor**. Our next panel of witnesses will be Pam Iron, executive director of the Indian Health Care Resource Center in Tulsa; Joanne Kauffman, director, Seattle Indian Health Board; and George Hawkins, acting executive director for United Indian Recovery Association.

Ms. Iron, do you want to proceed? You're first on the witness list under this group.

STATEMENT OF PAMELA IRON, EXECUTIVE DIRECTOR, INDIAN HEALTH CARE RESOURCE CENTER OF TULSA

Ms. **Iron**. Thank you, Mr. Taylor and staff. I want to thank you for giving me this opportunity to testify on S. 1298. In my testimony today I will provide statistics from the Oklahoma area, review and make recommendations on the bill, and summarize the inadequacy of the present system in regards to networking and providing coordination of services to deal with adolescent or juvenile alcoholism and drug abuse problems. The following account will provide documentation that the need is still there and that, although existing services attempt to meet the need, that there are major gaps.

An alcoholism needs assessment of the five major eastern Oklahoma tribes was performed in the fall of 1982. This was funded by the Indian Health Service and directed by the Eastern Oklahoma Indian Health Planning Board. The assessment was to document the need by collecting data from the State mental health admissions and also arrest data from the OSVI. From this data and the type of abuse the resources were projected. The data was collected for both adults and juveniles. As stated, the primary objective was to submit alcoholism treatment recommendations to Indian Health Service.

The population that we're talking about, just to give you an example of the size, was 116,621, and of this amount, 45,000 were 17 years and younger. This calculates out for the juvenile population being 39 percent of the total population.

In looking at this information from the Oklahoma Mental Health Information System, 51 percent of the reported treatment was for alcohol. That means that 51 out of 100 Indians admitted or reported had alcohol problems. In this case, this was the actual admissions, so it can be projected that probably 25 to 30 percent more have experienced some type of substance abuse but have not gone for treatment.

In the case of our social service department at the Indian Health Care Resource Center, close to 75 percent of all of our cases are alcohol-related. That means that somewhere in the family there is an alcoholism or substance abuse problem. Alcohol-related accidents for juveniles exceed the average of the non-Indian population. The arrests involving alcohol and other substances for Indian youth were 31 percent of all youth drunkenness offenses. Just to kind of put it in perspective, the Indian population in Oklahoma represents an average of 5 percent of the population.

From this assessment recommendations were made, which were social and medical detoxification centers, youth primary residential treatment, halfway houses for adults, ambulatory care counseling, adult and youth outreach and aftercare, long-term care, and emergency shelters for youth, all of which are the same treatment recommendations, when we are talking in regards to the youth, that are projected in title V of this bill.

In Oklahoma, as in other States, there is a rapidly growing inhalant abuse population. It seems to be more prevalent in the rural areas or rural communities but it is a serious problem. I feel that when you have one case, that it constitutes a serious problem. In my experience at our facility we see the older inhalant abuser that began as an adolescent. In addition, our caseworkers have gone out on home visits and found the children with their parents breathing the fumes in the same room.

Although there are isolated programs available for treatment in Oklahoma, I know of no formal treatment center existing that separates out inhalant abuse. I did find that at the social development center in Ponca City, that they do have one bed for adult inhalant abusers—one bed. It is not for juveniles.

One area that I would really like to emphasize is the training that is in title III of this bill. I believe it is very important for all personnel, the CHR's—the community health aides, the BIA personnel—to have formal in-service training or what could be termed as continuing education. I feel that there is not adequate training, because I have been in this area for approximately 15 years and I have not ever seen an adequate program that teaches the effects, detection, and how to make appropriate referrals.

I believe it is very serious, that this is a great need, not for it just to be available but for it to be mandatory. Also, I would like to see in title V that it be listed, that the Indian Health Care Improvement Act be inserted in with the other two acts that are listed for grants to be available for those eligible grantees.

In conclusion, I would like to say that I feel very strong about community education, role models, and yes, that alcoholism programs have made an impact, but I feel like they have not met the need and there are serious gaps.

When it comes to coordination of services, the cross-professional training that is needed is dire. For instance, your main individuals such as nurses daily deal with alcohol-related injuries, and there has been virtually no training in Indian Health Service facilities or others to deal with alcoholism or to be aware of this. It may be on paper, but if you went out into the communities, the alcoholism and substance abuse programs are not integrated within the other resources. They are set apart or separate. We must figure out a way of changing that image.

I feel that S. 1298 brings this into the forefront. We have avoided alcoholism education. We are afraid to talk about it, and I definitely think that this bill sheds new light and takes the positive approach to serving the juvenile population and educating the Indian community on substance abuse and their role in prevention. S. 1298 addresses these gaps. It is an innovative approach to establishing coordination of services and professional training at minimum cost.

Thank you.

[Ms. Iron's prepared statement follows:]

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Statement
Submitted To Senator Mark Andrews, Chairman
Senate Select Committee on Indian Affairs
September, 1985

Presented By
Pamela E. Iron
Executive Director
Indian Health Care Resource Center

Mr. Chairman,

I appreciate the opportunity to appear before this Committee to provide information on the mental and physical needs of the American Indian residing in Tulsa and Oklahoma as it pertains to the need for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth.

Introduction

This introduction will provide the committee with statistics that document the need for a mandatory program such as the one outlined in Senate Bill 1298.

Substance Abuse Patterns

Studies indicate "65% of the child abuse cases are alcohol related...other research points to relationships between alcohol and abuse, child molestation, and child neglect (Kerr Foundation 1979:17). Alcohol and other substance use are prevalent among all ages of the Tulsa Indian community. Alcohol is the most abuse substance. This is substantiated by arrest records and mental health admission reports. Table 2 portrays adult drug and alcohol arrests for Tulsa County from January to December, 1983; 1984 arrest statistics have not been released. Table 2 also infers the preference for alcohol as a substance of abuse by Indians.

TABLE 2

CY 1983 TULSA COUNTY SPECIFIC ADULT ARRESTS

OFFENSE	TOTAL ARRESTS	INDIAN ARRESTS	% ARRESTS ARRESTS
Drug Abuse Violations	1.734	51	2.9%
Driving Under the Influence	7,136	302	4.2%
Drunkenness	7,337	1,142	15.6%
Total Arrests for All County Offenses	24,917	1,799	7.2%

SOURCE: Computer Run - *Identifier 07200 County Tulsa, Reporting Period January through December, 1983*. "Monthly Report of Persons Arrested (Over 18 Years of Age)". Oklahoma State Bureau of Investigation. Oklahoma City, Oklahoma, November 20, 1984.

Table 3 indicates that Indian juvenile arrests replicate those of Indian adults. It lists juvenile substance arrests for Tulsa County from January through December,1983. As Indian adults, alcohol is the preferred substance of abuse by Indian juveniles. It cannot be determined if this is learned or inherited behavior.

TABLE 3

CY 1983 TULSA COUNTY SPECIFIC JUVENILE ARREST

OFFENSE	TOTAL ARRESTS	INDIAN ARRESTS	% INDIAN ARRESTS
Drug Abuse Violations	112	5	4.5%
Driving Under the Influence	94	3	3.1%
Drunkenness	171	19	11.1%
Total Arrests for All County Offenses	2,866	80	2.8%

SOURCE: Computer Run - Identifier 07200 County Tulsa, Reporting Period January through December, 1983, "Monthly Report of Persons, Arrested (Under 18 Years of Age)". Oklahoma State Bureau of Investigation. Oklahoma City, Oklahoma, November 20, 1984.

Of the 1,799 total County adult Indian offenses, sixty three percent (63%) of 1,142 are drunkenness arrests. Of the eighty (80) total County juvenile Indian offenses, twenty four percent (24%) or nineteen (19) are drunkenness arrests. This supports other studies which indicate that Indians are not necessarily more criminal than others but more drunk. The problem of alcohol abuse among Tulsa Indians is further by adolescent mothers (Community Service Council 1984:98). These statistics are not broken down by race. It can be assumed that at least five percent (5%) of 53 are adolescent Indian females. However, medical records at Indian Health Care Resource Center indicate that the Indian rate could be as high as fifteen percent (15%) or 161 adolescent Indian mothers.

Title III Family and Social Services is the strongest title of S. 1298. It is very important that those individuals that are directly providing services be adequately trained about the problems of alcohol and substance abuse, crisis intervention, and the causes and effects of fetal alcohol syndrome. The bill states not less than two weeks of training but I would recommend that this training be a part of the CHR and Community Health Aids formal in-service training. In addition that it be a requirement of all BIA educational personnel, educational personnel at schools operated under contract with the Bureau of Indian Affairs, personnel of Indian Health Service, and employees of emergency shelters that are responsible for, or work with, Indian juveniles. I feel that it is imperative that this is required for all personnel that are mentioned above. The following information documents the vital need for adequate training. The Indian Health Care Resource Center found that at least 75% of their family or social service cases were alcohol or drug related. It was determined that someone in the family was an abuser. When this problem was removed or solved that the family unit functioned normally. Although their were Indian alcohol services available in Tulsa, there were many unmet alcohol and substance abuse needs. IHCRC established an alcohol and substance abuse initiative last fall. The main effort was focused on the health center staff. It was my personal hypothesis that their is a step missing that could be labeled as pre-intervention that most alcohol programs miss. They are either prevention or for a person labeled an alcoholic. This is the step where individuals are drinking heavily, may be having gastritis, etc.

They come to a health professional and they are treated for their stomach ache, cuts, broken bones, but no one ever mentioned to them that they needed alcohol treatment. This phase which I call "pre-intervention" may mean the difference of a person dealing with an abuse problem or going ahead and becoming an alcohol or a dependent drug abuser. A model should be established where the physician or provider would directly state the physical affects that alcohol or drugs have on the body organs. The provider needs to be able to tell the patient that he is abusing himself. From this premise, an initiative began with a series of educational and/or training. The topics were

a) Disease concept of alcoholism
b) Early warning signs and stagesof alcoholism
c) Craving syndrome of alcohol and its relationship to abuse of other drugs.
d) Effects of alcohol abuse and other drugs on the family and significant others.
e) Treatment concepts and components
f) Fetal Alcohol Syndrome detection and prevention

Previous to this training it was an issue that most of the staff felt uncomfortable discussing. Counseling is underway, a support group is functioning, and the Doctors are talking to the patients about their abuse habits and making appropriate referrals. I am recommending to the Committee that the topics listed above be considered as a base outline for training purposes.

Title V -

I am recommending that on page 9, line 13, that the words "Indian Health Care Improvement Act" be inserted after Self-Determination. This will allow Urban Indian Health facilities to be involved in providing detoxification and outpatient counseling in a medical setting to Indian juveniles.

Summary

In general, S. Bill 1298 addresses the need to coordinate existing services between the BIA and IHS. It also stresses the need for education and/or training of law Enforcement officials on the reservations, BIA, IHS, and CHR's. In addition it set's forth Emergency Shelters for Juveniles and Rehabilitation services. All of the concepts are vital for changes to be made in our juvenile population. But somewhere along the line the Indian community has become tolerant of abuse. We have become passive and have not advocated for positive lifestyles. We need to be role models for the youth. In closing I challenge each Indian person to become a role model for just one of our preceous youth and we can all run brave.

Mr. **Taylor**. Thank you, Ms. Iron.
Ms. Kauffman.

STATEMENT OF JOANNE KAUFFMAN, DIRECTOR, SEATTLE INDIAN HEALTH BOARD

Ms. **Kauffman**. Thank you, Mr. Taylor.

My name is Joanne Kauffman, and I am executive director of the Seattle Indian Health Board. We congratulate the Senate Select Committee on Indian Affairs and all the other supporters of S. 1298 for this daring attempt at addressing a very complicated problem.

Alcoholism and substance abuse is, I believe, the single most important issue facing the future of Indian people today. Unfortunately, most Indian people have a difficult time admitting that. One of the first obstacles to effective alcoholism treatment is to break through the phenomenon of denial. It has been my observation that in our Indian communities across the United States and in the various national networks that make up so-called "Indian country," we are exhibiting passive tolerance or denial of the primary killer of Indian people—alcoholism.

The issue of Indian alcoholism and drug abuse is too often dealt with as an adjunct activity, functioning off in a corner someplace, run by a handful of recovering alcoholics, serving those few burned-out, bottom-of-the-barrel, revolving-door addicts who want to or have been told they have to sober up. Hasn't that been a convenient way for us all to look at Indian alcoholism? It is very safe. It is not me, it is not us, it is them.

But we know that that is not a real and accurate assessment of the problem. The statistics show that the problem of Indian alcoholism is rampant throughout all socioeconomic levels of the Indian community, among all professions of Indian people. It is not just the skid row people. It is us.

It is difficult for most Indian people to be objective about alcoholism, because we are very likely bearing scars ourselves of one type or another from this vicious disease. Our community-wide denial tolerates the disease constantly—in our homes, among our youth, among our leadership, and among our elders—it devastates our community.

Alcoholism silently invades the safety of our unborn. It traps our toddlers and exposes them to violence, abuse, and confusion. It deceives our teenagers and scatters their bodies on the highways, and it robs the dreams and ambitions of our most gifted children, leaving them angry at a society they never really had the chance to challenge.

S. 1298 proposes a fundamental change to our perspective on Indian alcoholism and drug abuse. This bill offers what has been lacking—a comprehensive, systemwide approach to the problem which incorporates the major institutions with which our young Indian people are most likely to come into contact, the legal, health care, and educational systems.

The Seattle Indian Health Board celebrated its 15-year anniversary this past June. After a long discussion between our staff and our board of directors, it was unanimously decided that we would dedicate our 15-year anniversary to the elimination of alcoholism in the Indian population, making a difference in our lifetime.

Dr. Dale Walker, a Seattle Indian Health Board board member, recently completed a major study funded by NIAAA. He sampled 150 Seattle Indian Health Board patients who came to our clinics for reasons other than alcoholism treatment. They were coming to our clinics for medical or dental care. He found that over a 1-year period those Indian adults who identified themselves as having an abuse or dependency surrounding alcoholism increased from 44 percent to 54 percent in just 12 months. He also looked at the use of alcoholism treatment programs in the State of Washington and found, in an unduplicated count, that one out of every four Indian women in the State of Washington has made an attempt to seek out treatment for alcoholism over the past 12 months. This does not take into account the number of Indian women who continue on, denying the problem exists or creating a series of excuses to avoid treatment.

Indian children today are growing up in an alcoholic environment. They are observing alcoholic behavior. They are experiencing the confusion of alcoholic parents, and they are missing out on some fundamental learning experiences needed to become responsible adults. As an administrator of an Indian Health Care Program, my alcoholism was a difficult problem for me to come to grips with. It is one that the Seattle Indian Health Board applauds, the Indian Juvenile Alcohol and Drug Abuse Prevention Act.

Upon reviewing S. 1298, the Seattle Indian Health Board would like to submit the following recommendations. We support the act as written, but believe that these recommendations will help to assure a successful implementation.

No. 1, we recommend that you institute an Employee Assistance Program which would aggressively identify, confront, and require treatment for employees who can no longer maintain reasonable levels of work performance due to alcohol or drug abuse. This should be a requirement for any and all agencies involved in the implementation of S. 1298. That means headquarters of the Indian Health Service, headquarters of the BIA, the area offices, the tribal governments, the schools, and the legal agencies. Until you do this, it is going to be nothing but lip services. It's still going to "us" and "them," and we know that that is not the extent of the problem. If Indian employment preference is truly being implemented in these agencies, and if the alcoholism statistics are valid, then these agencies are very likely controlled by Indian alcoholics. Unless you implement this Employee Assistance Program the objectives of S. 1298 will never be fully realized as set out here.

No. 2, I would recommend that the residential treatment centers that are proposed be accredited through JCAH and seek to qualify for any available reimbursements through State congregate care, medicare, medicaid——

Mr. TAYLOR. If I might interrupt, what is JCAH?

Ms. KAUFFMAN. Excuse me. The Joint Commission for the Accreditation of Hospitals has an accreditation process for alcohol treatment facilities that is nationally accepted across many governmental and regulatory boundaries, including private insurers and

State-run insurers or reimbursement mechanisms, and has a quality standard that can be enforced.

No. 3, that the Indian Health Service review its clinical protocols and training of its clinical staff to develop methods of identifying alcohol-related illnesses and methods of confrontation for patients suffering from alcohol or drug abuse.

No. 4, I would recommend that you also, without jeopardizing the intent of the bill, look at factors beyond the reservation, those populations in urban areas or rural areas. Indian juveniles with alcohol and drug problems, are not going to observe reservation boundaries. They are going to be running, and if all they have to do is cross the boundary to avoid treatment, then that might be what will happen. I would encourage you to incorporate participation, perhaps on regionalized levels of care, and look at all the available resources in reservation and urban communities available to Indian people.

No. 5, I recommend a system to establish guardian ad litems for juveniles faced with the authority of this legislation to protect their civil liberties, for those extreme cases where perhaps that treatment might not be warranted or perhaps the implementation of laws in a particular community might not be just.

In conclusion I would like to say that the Seattle Indian Health Board is very excited about this legislation and we hope that it passes. Recidivism is a major problem in treating alcoholism but it certainly has not been the rule, and I think that by taking this major step to bring alcoholism and the treatment of alcoholism and drug abuse to the forefront—to the classroom, to the family—is what is needed. It is a very exciting first step.

Thank you.

Mr. TAYLOR. Thank you, Ms. Kauffman.

Before we move to Mr. Hawkins, I would like to ask both of you a question. I think maybe you have hit it in your testimony, but I am not sure.

In section 102(a) of this bill, S. 1298, there is an authorization for an Indian tribe to submit a written request to the Secretary of the Interior to coordinate resources and services related to alcohol and drug abuse prevention, identification, education, treatment, and followup care. Subpart 102(b) states:

> Within 90 days of receipt of a written request of any Indian tribe submitted under subsection (a), the Secretary of the Interior, in consultation with the Secretary of Health and Human Services, shall enter into an agreement with such tribe to identify and coordinate responsibilities and referral resources of all agencies and programs providing alcohol and drug abuse-related resources or services within the service are of such tribe * * *.

This doesn't seem to extend to the urban programs. I don't see where that section would extend this contracting authority to urban Indian programs that are dealing with very heavy alcoholism problems in urban areas.

Would you recommend an amendment to that section to assure that urban organizations could apply?

Ms. ISOM. Yes, sir.

Mr. TAYLOR. Mr. Hawkins, I think before we move to you, Jane Wrenn, special counsel, has some questions that she would like to direct to these two witnesses, and then we will get to you.

Ms. **Wrenn**. Ms. Iron, are there any Indian alcohol or drug abuse programs operated in Tulsa, and if there are, do they have any success rates as far as what you see at your health clinic?

Ms. **Iron**. There is an alcoholism program that is operated in Tulsa that is funded through the Indian Health Service. Basically, this program deals with the court ordered or the alcoholic adult who has reached the bottom or who is no longer functional in society. There is a success rate, but this is one of the gaps that I am talking about. There are no programs for adolescents.

At the time, such as recently, a program was funded, a program called the American Indian youth project which really is a prevention program that started only a month ago. It deals with coping skills and that sort of thing, but it will only reach a small percent of the Indian population. These will be at-risk children. So, there really needs to be a different treatment developed for the adolescents.

Ms. **Wrenn**. Thank you. Ms. Kauffman, what about in Seattle?

Ms. **Kauffman**. In Seattle, I am not aware of any in-patient residential treatment for Indian juvenile alcohol or drug abusers. We do have an in-patient facility for adult alcoholics.

At one time, the Center for Disease Control through a block grant for the State of Washington provided funds to the Seattle Indian Health Board for an alcohol and drug prevention program which was a very successful model known as the Mitima Program which provided alternate activities, nondrinking activities for Indian youth throughout the year and provided alcohol education. We have tried to continue that with the funds that we have left once we lost the CDC funding, but that has been very difficult.

There are very few services targeted toward this population.

Ms. **Wrenn**. Thank you. Ms. Iron, with the juveniles that come into the Tulsa center, do you have or do you see a lot of them that have drug or alcohol problems and, if you do, what type of services do you offer these youth?

Ms. **Iron**. We do have probably I would say the same level, about 75 percent of our children who do come who have alcohol or drug problems. We have one counselor, an adolescent counselor, who is funded through an Indian child welfare grant from the Bureau of Indian Affairs that does counseling in this area. We have a psychiatrist who reviews the person and then we make a referral, but if there was a severe problem, it would have to be to a non-Indian facility which may not be the best referral because it has been found and proven that there are different ways to work with Indians in regard to some of these problems.

Ms. **Wrenn**. Thank you.

Ms. Kauffman, what about in Seattle? Do you have a lot of youth coming in to your center with high incidence of drug or alcohol problems and, if so, what do you do about them?

Ms. **Kauffman**. Well, there are a lot of Indian children who suffer from alcohol or drug abuse problems. There are not a lot of them who come saying that this is my problem and I want to get some help. Most of them are discovered in the Alternate High School Program that we have in Seattle for those kids who cannot function in a regular public school. There is also a Street Youth

Program that is run by the United Indians of all tribes that comes into contact with youth suffering from those problems.

As I mentioned, there is no comprehensive approach to looking at that problem.

Ms. **Wrenn**. Thank you.

One last question. We hear that there is becoming a real problem with the use of inhalants by Indian juveniles. We have heard that it does differ in its needs for treatment and for assessment and that it is a growing problem. The committee has heard that inhalant use is used more in the rural communities than in the urban.

Based on your work with juveniles, do you agree that there is a rising problem with the abuse of inhalants and, if so, are we being hampered in our approach to the children by the lack of research in how to deal with inhalant abuse? Ms. Iron?

Ms. **Iron**. Yes. As I stated in my testimony, there is a rising problem. I first became aware of the inhalant abuse when I was an Upward Bound counselor approximately 15 years ago. I had no idea why they had paint all over their faces and spray cans in their purses, but I became very familiar very fast with this problem. This was in Ponca City, OK.

At that time, there was no one to deal with this. I spent many hours getting my students out of jail because of the problems that were created from inhalant abuse.

To this day in Oklahoma and what I am aware of, there is some educational or some research going on but not at a funded level by a gentleman in Miami, OK, Morris Dyer, with the Indian Health Service. And there is one bed, as I stated, at the Ponca City special development center for adult, but there has not been any other formal treatment centers set up for inhalant abuse.

Ms. **Wrenn**. Thank you.

What about in Seattle, Ms. Kauffman?

Ms. **Kauffman**. I think inhalant abuse is a significant problem. I don't know if it is on the increase or was always there and we never really noticed, but it is a serious problem, one that we uncover in our medical clinic, and dental clinic, and alcoholism program and one that I recall observing when I was an Upward Bound student.

Ms. **Wrenn**. I would like to thank you both for coming and we appreciate your testimony, your suggestions and recommendations for the bill. I know that Ms. Iron has to leave here immediately to go to a White House meeting, and she may want to grab some lunch, so if you want to be excused, Ms. Iron, that is fine, and we will go to Mr. Hawkins now.

STATEMENT OF GEORGE HAWKINS, ACTING EXECUTIVE DIRECTOR, UNITED INDIAN RECOVERY ASSOCIATION, CORDELL, OK

Mr. **Hawkins**. Thank you.

I want to add my feeling of gratitude to this committee for providing this opportunity for Indians to present their concerns.

Ms. Wrenn, I am glad you asked these young ladies that question.

At the inception of these efforts by the Federal Government in 1970 when Public Law 91-616 was enacted, which is properly called the Hughes bill, which set up the Alcohol and Drug and Mental Health Administration, this at the time was a new health care specialty, alcohol and drug problems. So, ADAMHA, the Alcohol and Drug and Mental Health Administration, and, subsequently, the Indian Health Service has used an eclectic approach to setting up programs, and this has been a great concern of ours.

We have learned over the years that we should get into other areas, and we are very gratified that this committee has introduced this legislation. Perhaps we can go ahead with using the empirical experience that we have established to set up these things.

In addition to our written testimony, I have made some notes for an oral presentation. In listening to the administration witnesses earlier, I kind of want to react to some of their statements.

I agree that I am no expert although I have been involved in this problem for 18 years professionally. One of the things we have found and research possibly substantiates is that we all take the drug of our choice. It may be inhalants or whatever, but eventually it has been determined that we all abuse alcohol eventually.

I was surprised and distressed that it appeared that the Bureau of Indian Affairs and the Indian Health Service, the Assistant Secretary of Indian Affairs are not fully supportive of this legislation. It would appear that if policies and authorities are in place, we must use, as suggested by a member of the committee, a more imaginative approach, because it appears that this is a growing problem in spite of all of what the Bureau of Indian Affairs and Indian Health are doing.

I was a member of task force 11 which looked into the drug and alcohol problem on the American Indian Policy Review Commission. We had a meeting at the Cheyenne and Arapaho Boarding School. During this meeting, it surfaced that whenever they found a student involved with drugs, he was summarily dismissed. I hope that policy has been changed. That was one of the things that we found then.

In their training, their testimony about training, in the State of Oklahoma, I was a member of the certification board that certified alcohol and drug abuse counselors for the State. It was recognized as the State agency. It was a peer board. I served on that board for 4 years and I eventually resigned because of a heart attack, but during those 4 years, we had never had any contact with employees from the Indian Health Service or the Bureau of Indian Affairs.

So, I think they could broaden their scope there.

Getting back to my original notes on my oral testimony, we would favor a prevention model that requires better parenting and social change to restore or increase social justice. I would like to quote Dr. John Cassell who is leader in public health research in an article he wrote in the August 1976 issue of the American Journal of Epidemiology. He wrote, and I quote:

> A remarkably similar set of circumstances characterizes people who develop tuberculosis and schizophrenia, become alcoholic, or are victims of multiple accidents or commit suicide. Common to all these people is the marginal status in society. They are individuals who, for a variety reasons, for example, ethnic minorities rejected by the dominant majority in their neighborhood, lower sustained rates of residential and occupational mobility, broken homes or isolated living circumstances, have been deprived of meaningful social contacts.

We agree with that concept. Also, we see another troubling circumstance that seems inherent among the people and the policy makers. Every time we uncover a problem, we want to set up a program to resolve it without first determining what caused the problem.

Take, for instance, fetal alcohol syndrome. This has been recognized for centuries as being a problem. In 1972, two life scientists at the University of Washington brought it again to nationwide attention. IHS appeared on the scene wanting money to study this problem and develop programs. Dr. Johnson, formerly the director of IHS, stated succinctly at a meeting in Bismark, North Dakota in 1983 that our biggest challenge is to stop that woman from drinking.

During my tenure working with task force 11, at the Cheyenne Rapaho Hospital in Clinton, OK, we decided—a social worker and I decided that we would look at some pregnant Indian women who were diagnosed as alcoholics. We picked 10 names off the computer, 10 subjects off the computer, but before we could complete that, 7 of them had died. That was a tragic situation.

Going back to our written testimony, we have tried to help people who have problem with dependency live with their handicap and adjust as well as possible, which is called tertiary prevention. We have tried to treat people early with psychotherapy to keep their problems from getting worse or perhaps to restore them to more normal functioning which is called secondary prevention. Rarely have we tried to prevent problems from appearing in the first place which is primary prevention.

That is the reason that we would like to follow Dr. Cassell's idea of providing better parenting and a social change.

Thank you.

[The prepared statement of the United Indian Recovery Association, submitted by Mr. Hawkins, follows:]

Testimony of

THE UNITED INDIAN RECOVERY ASSOCIATION

AND

THE OKLAHOMA COMMITTEE ON INDIAN WORK

September 18, 1985

TO THE UNITED STATES SENATE SELECT COMMITTEE ON INDIAN AFFAIRS regarding S.1298, to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth and for other purposes.

Good day, Mr. Chairman. My name is George Hawkins, a member of the United Indian Recovery association and the Oklahoma Committee on Indian work. The association is a consortium of alcohol and drug abuse programs and individuals concerned, primarily with the problem of alcohol and drug abuse among Indians and the Oklahoma Committee on Indian Work, an entity sponsored by the Episcopal Diocese of Oklahoma, that list alcohol and drug abuse as one of the seven primary concerns.

The reason for this concern is obvious and we are gratified that the Congress is also demonstrating this concern by introducing S.1298, and, also, the fact of bringing in statutorily, the Bureau of Indian Affairs, which may be one of the most significant actions taken by the Congress.

But, we would also suggest that all the forces of the Government of The United States of America be brought to bear in eliminating the problems the Indians are experiencing.

The conditions effecting the Indian today are very complex conditions socioeconomically, culturally, and the fundamental condition of not having a viable tribal government. So we must approach the prevention effort from an all encompassing view point, if we are going to solve the problem of alcohol and drug abuse among Indian youth.

What has happened (or not happened) which results in so many people not being adequately prepared to live productively?

Currently, a great many of our people receive remedial social psychological assistance from some government sponsored or private "helping" institution. At this point, we believe it is necessary to begin to put a significant portion of our effort in "helping" before people experience problems. We speak of this as "habilitation" or prevention as opposed to "rehabilatation" or treatment. While the latter is, of course, needed, it would be far less needed were we doing a better job or preparing our people to live productively.

It is almost impossible for the ordinary American to understand the absolute domination of the lives of Indians by government agencies over the past 100 years. What American community would stand for a government sponsored school program that completely ignored American history, forbade its children to speak English, undertook to teach the children a completely foreign language and carried on all its instruction in this foreign language? This is similar to what is happening in many American Indian communities today.

The bureaucratic domination over the lives of the Indian people has taken away opportunities for using their own judgment, assessing their situations, planning and implementing programs designed to meet their needs and problems. It has forced them into the role of receivers of services that may or may not make sense to them, resulted in serious dependency, hopelessness, loss of pride, and what appears to be lack of responsibility and lack of ability to make decisions.

The Bureau of Indian Affairs and the Indian Health Service has insisted more and more in recent years that agency superintendents and area directors involve the people more in program planning. But, all, of this occurs within the frame work of what existing Bureau or Indian Health Service programs can do. With this token involvement of Tribal leadership, the program proposals may or may not be submitted to the Tribal Council for endorsement before they move into the cumbersome government budget planning process which will result in funds for the programs eighteen (18) months or two (2) years later.

If at any point, tribal leadership disagrees with the program proposals, or raises any question about a more realistic ordering of priorities, it will usually be told that budget submission deadline dates at various levels of the budget planning process precludes any change and, quite often, original program proposals may be discarded or drastically modified without any notice to tribal leadership.

Tribal governments used to face this frustration only in their dealings with the Bureau of Indian Affairs, and since 1955 (Transfer Act) Indian Health Service. In recent years, they have faced similar situations as other federal agencies and many state agencies have moved onto the scene.

Attitudes of hostility towards Indians exist in varying degrees of intensity and openness in most communities surrounding the reservations and Indian communities. Many members of the neighboring communities look down on the Indians as dependent welfare populations, as irresponsible, dirty, lacking in motivations or any desire to improve themselves, and prone to spend their welfare checks on liquor, while their children go without food. Many people resent the funds that the federal government spend on the reservations even though government payrolls, wages paid to Indians employed in antipoverty programs, and even welfare checks constitute an important undergirding of the economy of most reservation border towns. (El Reno, Oklahoma, a few years ago, in a newspaper article, attributed their excellent economy and future to three factors - the farming community; the railroad; and the Federal Reformatory - no mention, whatsoever, of the then existing Cheyenne and Arapaho Boarding School or the Cheyenne and Arapaho Agency). Some Indians make the observations that the biggest generator of business and income in the border towns in the continuing proverty of the Indian people.

A hidden, but most important, function of Bureaus of Indian Affairs and the Indian Health Service, and one that the more perceptive sensitive members of BIA's and IHS's staff would be glad to give up, is their role as scapegoat for all that is wrong in the present situation of the Indian people. First of all, the Bureau of Indian Affairs and the Indian Health Service have an impossible assignment. No federal agency can solve the problems of the Indian people. Neither can any combination of federal agencies, or federal and state agencies. This job can be done only by the Indian people themselves, using their own insight into their own problems, supported with funds to implement programs that make sense to them, with freedom to move and to negotiate in the larger community that surrounds them.

It is being reported that from one-third to one-half of the country's Indian population is now living in cities. Where Indians on the reservations have been studied and written about for years by non-Indians - anthropologists, sociologists, psychologists, and other social scientists, and by congressional investigating committees - it appears that the urban Indians are already telling their own stories.

Urban Indians appear to fall roughly into four (4) groups.

First, there is a sizable group in flux, moving back and forth between their reservation homes and the cities.

Second, is a stabilized population which has established itself in poorer parts of the city and at low levels on the economic scale.

These first two groups are in many respects like a reservation proulation transferred into an urban situation, with strong attitudes of dependency, feeling of inferiority as Indians, distrust and limiting of their associations with white people, with little know how in finding housing or employment or in dealing with police, public schools, social service departments or other agencies; coming together and organizing mainly for fellowship and mutual moral support in emergency situations rather than for social actions.

Third, there is a stabilized, well-adjusted population that came into the urban situation with a high school or better than high school education, a marketable job skill, greater self assurance in associating with non-Indians. The size of this part of the population may be larger than is known. While it maintains relationships with its home community on the reservation, it generally lives in better residential areas, enjoys association with non-Indians, does not identify with the Indian community in the city either, because it chooses not to or is rejected by the poorer group.

The fourth faction is the militant, social action oriented group which identifies with the poorer part of the Indian population, which regards the poorer part of the population as the "Urban Indian Community", and which aspires to gain leadership in this urban Indian community.

The poorer urban Indian community is faced with a variety of serious economic and social problems, but is still more satisfied with its "Indian ways" than it would be in adopting the "white man's ways".

Indian children are blessed with the same amount of intelligence as children of any other ethnic group. There is indication that those who start school with the ability to use English do as well as, and in a surprising number of instances, better than non-Indian children. But, this has created a paradox, as was graphically illustrated during the hearings held on H.R. 1156, in Albuquerque, New Mexico, June 1985. A teenaged Navajo girl, who had been treated and was now recovering from drug dependency, testified that she surely believed that her problem started when she could not speak her own language (Navajo), that she could not communicate with her grandmother and this gave her a feeling of being a non-person, that she was not a Navajo teenager nor a white teenager. This loss of identity is one of the major factors in creating problem dependencies.

While some public schools have been giving increasing attention to the peculiar needs of the Indian children they serve, teachers in public schools have been trained to teach children from the dominant society. Those who are sensitive to the needs of the Indian students and take time to learn something about the history, culture, and tribal background of their Indian students are still the exception. A Cheyenne was invited to speak to a group of fourth and fifth graders and, evidently, he was expected to appear in beads and buckskins and, perhaps, to entertain with the beating of a tom tom and war dancing, instead he came dressed in what is acceptable in today's society and started by giving the kids some background of Cheyenne culture, then asked if the kids had any questions. One little boy asked, "Why the Indians and cowboys were always fighting", and before he could answer that question, a little girl asked, "Where did the Indians come from?" The Cheyenne said, "Well, I can answer both questions with one answer: This land, where this school now stands, was where the Cheyennes lived for centuries and we were fighting to keep it."

Spiritual Aspect - Almost all aspects of Indian religion was considered by the western Europeon as barbaric and civilized religions must be invoked. For more than 100 years, religious organizations have demonstrated a concern for Indian and Native Alaskans, one hundred years ago, under the Grant Peace Policy, a number of Protestant denominations, without consulting the Indian people, in effect divided the Indian country among themselves to permit concentration of their respective missionary efforts. The Roman Catholic Church played no part in this arrangement, perhaps because they were well established in the southwest where the Spanish influence had predenominated since, even before, the advent of the western European.

Whether to go back to traditional religions or to engage in religious rites that were brought by western Europeans has left many Indians in confusion. A concerted effort should be instituted to make known that each individual has a right of choice in religious and spiritual orientation. The Religious Freedom Act, P.L. 95-341, is a great step forward, but the majority of Indians are not aware of this act or it's implications.

We have attempted to point out the causes of problem dependencies among Indians and, which would certainly effect Indian youth.

There does not appear, at this time, to be scientific evidence to substantiate a genetic - biochemical explanation for problem dependencies among Indians. One fact that seems to have been ignored is that there are atleast, 258 different ethnic groups, labeled Indians, on the North American continent. Each with its own society, yet studies have indicated the tremendous disparity between the natives of this continent and the people who have come, primarily, from western Europe.

The social, political, economic, and cultural isolation of the Indian both in the rural areas and the cities, is one of the greatest anomalies in American society.

There is abundant good will in the American public towards Indians, as evidenced by the introduction of S.1298.

Forces which hold any part of American society in a disadvantaged position, that deny any part of the society its civil rights, its right to share in opportunity an its right to self determination are seen increasingly as forces that must be challenged and eliminated, if American is to start moving forward once more to realization of its dream of a truly just and great society.

Indian leadership is growing in sophistication and its ability to articulate what the people think and feel. Indian people are growing in their ability to chart their own future.

And equally important in implementing the policy of Indian self determination must be generosity in the allocation of federal, state, and local resources in the area of legitimate concerns, for funding the programs that Indian people devise for meeting their needs, solving their problems, exploiting their opportunities, and for making the contributions only they can make to the enrichment of the total American society.

We have tried to help people with problem dependencies live with their handicap and adjust as well as possible (tertiary preventional); we have tried to treat people early, with psychotherapy to keep their problems from getting worse or perhaps to restore them to more normal functioning (Secondary prevention); rarely, have we tried to prevent problems from appearing in the first place (Primary prevention).

We recommend the following three priorities, as they would develop a prevention model that would require social change to restore social justice, to reduce powerlessness and to lessen the stresses of the competitive industrial society.

RECOMMENDATIONS TO UNITED STATES SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

PRIORITY:

Strengthen Tribal Governments - to enable them to become more effective in serving the people, in protecting tribal rights and in achieving a proper place of respect for the Tribe in the larger community - the State, the region, and the nation.

Establish Division of Prevention and Special Problem Dependency Programs - with a proper budget and in a setting that would be accountable to Indians.

Establish National Indian Advisory Council would advise the Division of Prevention and Special Problem Dependency Programs regarding the policies and programs of the Division including policies and priorities with respect to grants and contracts. (Perhaps authority already exists under 42.U.S.C.218, Section 217 of the Public Health Service Act, as amended. The council shall be governed by the provisions of P.L. 92-463 5 V.S.C. appendix 1.)

Ms. WRENN. Thank you, Mr. Hawkins. We really appreciate your testimony and it is going to help the committee a lot.

I just have one question. It is sort of a bottom-line question. You have been around the block with these alcohol and drug abuse problems in Indian country for many years. Do you feel that if the BIA and Indian Health Service are going to really get out there and start doing the job of preventing and treating juvenile Indian alcohol and drug abusers, and that it is going to be necessary to have a bill like S. 1298 or something similar?

Mr. HAWKINS. I sincerely believe that it would take that, because at the time we started looking at this problem, especially with NIAAA, National Institute of Alcohol Abuse and Alcoholism, we presumed that with the problem recognized that the total community would jump in and start trying to resolve the problem. However, when we actually got into the operation of the thing, we had a heck of a time getting everybody to cooperate.

I think it is going to take the legislation that this committee is proposing to get this thing going and enhance the efforts to do this. I think it is vital that this legislation proceed.

Ms. WRENN. Thank you very much, Mr. Hawkins. Thank you for coming today.

Mr. TAYLOR. Thank you, Mr. Hawkins.

I would like to call panel 2 which will be Billy Evans Horse, chairman of the Kiowa Tribe; Russell Hawkins, chairman of the Sisseton-Wahpeton Tribe; and Basil Brave Heart of the Little Wound School in Kyle, SD. The panel following that will be Steve Unger with Jerry Flute and Jack Trope with the Association on American Indian Affairs.

Mr. Horse, since you are first on the list, why don't you begin.

Mr. HORSE. Thank you.

I have copies of the testimony. To whom do I make these available?

Mr. TAYLOR. I would assure you that all of your written statements will be made a part of the record as if you had read them in full, and I would urge you to summarize so that we can get to whatever questions may be appropriate.

Mr. HORSE. If you will permit me, I would like to make an opening statement in Kiowa. I feel most comfortable in that because that is what I am.

Mr. TAYLOR. Good enough.

Mr. HORSE. I appreciate that.

STATEMENT OF BILLY EVANS HORSE, CHAIRMAN, KIOWA NATION, CARNEGIE, OK

My prepared paper reads as follows: "The Kiowa Nation Position Paper on S. 1298."

My name is Billy Evans Horse. That is an identification that has been given to me by English in that respect, and I do have a true name that refers in Kiowa to the man who sits in the middle, Donga Anga. That is my true name. I am the chairman of the Kiowa Nation located in western Oklahoma.

I thank the chairman and the committee for allowing me to submit the following in this important hearing on a problem that is of deep concern to the Kiowa as well as to other Indian nations throughout the United States.

The future of our people is dependent upon our youth. It is for this reason that the Kiowa advocated in other hearings held this year on the need for increased funding for the education of our Indian youth. We, like other Indian tribes, are faced with a disproportionately high unemployment rate for our people. The Kiowa unemployment rate is 47 percent of employable people, while the rate for our great State of Oklahoma is around 7 percent.

There is not much to offer our young people, and we are losing more and more of them to alcohol, drugs, and other substances. This will drastically affect our future as a people. It is with this in mind that I offer the following comments on S. 1298.

Title I which provides for interdepartmental agreements between Interior and Health and Human Services is good as such coordination will help to establish the immensity of this problem facing Indian tribes. Such coordination of facts and information should produce positive results, and these two agencies, both serving the Indian populace, by combining resources will provide wider coverage and better utilization of funds.

Section 102(a) provides for the Indian tribes to be involved and to implement services. This tribal input is important. We must be given the tools we need to combat these very serious problems like a responsible government should. S. 1298 will compile the information tribes need to combat the problem of alcohol and substance abuse.

Title II, Education, provides for educational programs and all BIA and tribally, Public Law 93-638, operated schools for grades from kindergarten and grades 1 through 12. According to a report given to us by a tribal prosecutor of our Code of Federal Regulations/Tribal Court for Western Oklahoma, children as young as 8 years old have been found by police 3 days in a row high on paint sniffing. These children were released to their parents each time and found again in the same condition the next day.

Section 201 (b) and (c) would encourage family participation and tribal input. This is very important. Our prosecutors have reported to us that Indian teenagers, both male and female, have come into contact with police and the court already brain damaged and beyond rehabilitation from paint sniffing.

Today, a young Indian woman in her early twenties is in prison for murder, and in her trial, it was brought out she had been a paint sniffer since early age. She had been found by police since her young teens wandering about in all kinds of weather in a subconscious state.

Paint and glue are cheap and easier for impoverished, very young children to obtain than alcohol or drugs. Now we hear children are beginning to use typewriter correction fluid. Information, as title II will provide, may reach these younger children before they become hooked. If they are not reached at a very early age, it often is too late when they reach junior high level. Most young Indians today in prison are there because of something they did while under the influence of alcohol or drugs.

Title IV, Law Enforcement, however, will cause some concern here in Oklahoma. First of all, Oklahoma has changed their juvenile law regarding incarceration of juveniles. A juvenile cannot be jailed for being under the influence of alcohol or drugs unless they have committed a violent type of crime and pose a threat to the safety of the community.

Section 401(a)(1) provides that guidelines will be promulgated under which any tribal or Federal law enforcement officer may, for the benefit of any Indian juvenile arrested for an offense related to the abuse of alcohol or drugs, or * * * place such Indian juvenile in a facility other than an emergency shelter described in subsection (b) or a community based alcohol or drug abuse treatment facility.

Our problem is that we have a jail contract for our court with our surrounding non-Indian communities and they abide by the State juvenile and corrections laws even when dealing with tribal prisoners. Tribes in western Oklahoma, like many other tribes throughout the country, have no juvenile treatment facility or shelter. Our boarding schools are the only means of separating a juvenile from a bad environment.

Any guidelines developed should consider situations such as the tribes are faced with in Oklahoma. Our resources are so limited in this area of treatment. Also, some tribes already have promulgated their own juvenile codes as the Kiowa are in the process of doing. This is our self-government right as our treaty provides that we have jurisdiction to regulate our own members within our area of jurisdiction. Any guidelines developed must consider the rights of the tribe as a government.

Title IV will allow the establishment of temporary emergency shelters to house, whenever appropriate, Indian juveniles apprehended while under the influence of alcohol or drugs. This is badly needed. A tribal prosecutor reported a case where an elderly Indian grandmother who, when she heard her grandson approaching her house, ran to her room and put her purse between her mattress and laid upon the bed and was tossed off onto the floor by her paint-smeared 16-year-old grandson when he searched for her purse.

It is against our customs and tradition to seek court restraining orders against our own children and grandchildren, yet our people and grandparents especially are forced to do so in increasing numbers. This is due to children and grandchildren abusing alcohol, drugs, and other substances.

With no facilities for treatment or emergencies, these youngsters are returned to their homes still under the influence of these substances, and parents and especially elderly grandparents raising these children suffer also. These shelters provided for in S. 1298 are greatly needed.

Title V would provide the funding to establish the programs and health facilities to combat this growing problem. It also provides a procedure for the tribes to have input. Without such tribal input, the true nature and proportions of the problem will not be known. The tribes cannot achieve self-sufficiency and financial independence unless our young people are educated, clearheaded, and strong.

We thank Senators Andrews, Melcher, Abdnor, Murkowski, Pressler, Goldwater, DeConcini, East, Burdick, Bingaman, Cochran, Helms, and Stevens for introducing this important legislation. Thank you. Passage of S. 1298 will not only benefit the Indian tribes and our surrounding communities but society as a whole.

Thank you.

[The prepared statement of the Kiowa Nation, submitted by Mr. Horse, follows:]

KIOWA NATION POSITION PAPER

S. 1298

To Coordinate and Expand Services for the Prevention, Identification, and Treatment of Alcohol and Drug Abuse Among Indian Youth, and for Other Purposes.

My name is Billy Evans Horse, I am the Chairman of the Kiowa Nation located in Western Oklahoma. I thank the Chairman and the Committee for allowing me to submit the following in this important hearing on a problem that is of deep concern to the Kiowa as well as to other Indian Nations throughout the United States. The future of our people is dependent upon our youth. It is for this reason that the Kiowa advocated in other hearings held this year on the need for increased funding for the education of our Indian youth. We, like other Indian tribes, are faced with a disappropriately high unemployment rate for our people. The Kiowa unemployment rate is 47% of employable people while the rate for our state, Oklahoma, is around 7%. There is not much to offer our young people and we are losing more and more of them to alcohol, drugs, and other substances. This will drastically effect our future as a people. It is with this in mind that I offer the following comments on S.1298:

Title I, which provides for Interdepartmental Agreements between Interior and Health and Human Services is good as such coordination will help to establish the immensity of this problem facing Indian Tribes. Such coordination of facts and information should produce positive results and these two agencies, both serving the Indian populace, by combining resources will provide wider coverage and better utilization of funds. Section 102 (a) provides for the Indian Tribes to be involved and to implement services. This tribal input is important. We must be given the tools we need to combat these very serious problems like a responsible government should. S. 1298 will compile the information Tribes need to combat the problem of alcohol and substance abuse.

Title II - Education provides for educational programs in all B.I.A. and tribally (P.L. 93-638) operated schools for grades from Kindergarten and grades one through twelve. According to a report given to us by a Tribal Prosecutor of our C.F.R./Tribal Court for Western Oklahoma, children as young as 8 years old have been found by police 3 days in a row, high on paint sniffing. These children were released to their parents each time and found again the next day in the same condition. Section 201 (b) and (c) would encourage family participation and tribal input. This is very important. Our prosecutors have reported to us that Indian teenagers, both male and female, have come into contact with police and the court already brain damaged and beyond rehabilitation from paint sniffing. Today a young Indian woman in her early 20's is in prison for murder and in her trial it was brought out she had been a paint sniffer since early age. She had been found by police since her young teens wandering about in all kinds of weather in a subconscious state. Paint and glue are cheap and easier for impoverished, very young children to obtain, than alcohol or drugs. Now we hear children are beginning to use typewriter correction fluid. Information, as Title II will provide, may reach these younger children before they become hooked. If they are not reached at a very early age, it oftentimes is too late when they reach junior high level. Most young Indians today in prison are there because of something they did while under the influence of alcohol or drugs.

Title IV - Law Enforcement, however, will cause some concern here in Oklahoma. First of all, Oklahoma has changed their juvenile law regarding incarceration of juveniles. A juvenile cannot be jailed for being under the influence of alcohol or drugs unless they have committed a violent type crime and pose a threat to the safety of the community. Section 401 (a) (1) provides that guidelines will be promulgated under which any tribal or federal law enforcement officer "may, for the benefit of any Indian juvenile arrested for an offense related to the abuse of alcohol or drugs, or...., place such Indian juvenile in a facility other than an emergency shelter described in subsection (b) or a community-based alcohol or drug abuse treatment facility." Our problem is that we have a jail contract for our court with our surrounding non-Indian communities and they abide by the state juvenile and corrections laws even when dealing with tribal prisoners. Tribes in Western Oklahoma, like many other tribes throughout the country, have no juvenile treatment facility or shelter. Our boarding schools are the only means of separating a juvenile from a bad environment. Any guidelines developed should consider situations such as the Tribes are faced with in Oklahoma. Our resources are so limited in this area of treatment. Also some tribes already have promulgated their own juvenile codes as the Kiowa are in the process of doing. This is our self government right as our Treaty provides that we have jurisdiction to regulate our own members within our area of jurisdiction. Any guidelines developed must consider the rights of the Tribe as a government.

Title IV will allow the establishment of "Temporary emergency shelters to house, whenever appropriate, Indian juveniles," apprehended while under the influence of alcohol or drugs. This is badly needed. A tribal prosecutor reported a case where an elderly Indian grandmother, who when she heard her grandson approaching her house, ran to her room and put her purse between her mattresses and laid upon the bed and was tossed off onto the floor by her paint smeared 16 year old grandson when he searched for her purse. It is against our customs and tradition to seek court restraining orders against our own children and grandchildren, yet our people and grandparents especially are forced to do so in increasing numbers. This is due to children and grandchildren abusing alcohol, drugs, and other substances. With no facilities for treatment or emergencies these youngsters are returned to their homes still under the influence of these substances and parents and especially elderly grandparents raising these children suffer also. These shelters provided for in S. 1298 are greatly needed.

Title V - would provide the funding to establish the programs and health facilities to combat this growing problem. It also provides a procedure for the tribes to have input. Without such Tribal input the true nature and proportions of the problem will not be known. The tribes cannot achieve self sufficiency and financial independence unless our young people are educated, clear headed and strong.

We thank Senators Andrews, Melcher, Abdnor, Murkowski, Pressler, Goldwater, DeConcini, East, Burdick, Bingham, Cochran, Helms and Stevens for introducing this important legislation. Thank you. Passage of S. 1298 will not only benefit the Indian Tribes and our surrounding communities but society as a whole.

Mr. **Taylor**. Thank you, Mr. Horse.

I might just add one name to those you mentioned. I understand Senator Nickles is now also a cosponsor.

Mr. **Horse**. Great.

Mr. **Taylor**. Mr. Brave Heart, please proceed.

STATEMENT OF BASIL BRAVE HEART, LITTLE WOUND SCHOOL, KYLE, SD

Mr. **Brave Heart**. My name is Basil Brave Heart, and I would first like to thank Mary Jane Wrenn for getting me on this list at the last minute. This is really my third time I have had the opportunity to testify for this bill, S. 1298. The first one was in Denver, and then Rapid City, and this one here.

Back in 1981, the Little Ones School Board and myself and two students made a trip to Washington. At that time, we met with Congressman Daschle and Karen Funk. I believe at this time that this type of bill, this legislation, was begun. So, we are very pleased as to how far this bill has gotten.

I am going to deal with some issues that first of all I have some identified concerns that we have recognized in the field regarding alcohol and drug programs. Specifically, the concerns that we have observed, this bill can be written in the finest language and it can have a lot of bucks put into it, but if there is lack of coordination between some of the agencies that are going to be responsible for administering these kinds of programs; namely, the Bureau of Indian Affairs and the Indian Health Service, then I have some grave concerns.

First of all, there are some programs in the field that lack quality evaluation and monitoring. We have such a program on our reservation which needs some updated training. It is the only alcohol and drug treatment program in the Aberdeen area, yet I feel that there is lack of direction, lack of quality directives to quality training, and specific training for prevention and treatment. Now, this is a whole different specific area and specific field. Too often, we have people administering these programs that have a lot of degrees and may have a lot of concern and interest, but it takes more than that.

As a case in point, I am very concerned with Dr. Kreuzburg's statement that treatment for alcohol and drugs are the same. In fact, it is the opposite. He said the they are different. The treatment is different between alcohol and drugs. That concerns me that we have a person in a position to administer what is supposed to be one of the most effective agencies to deal with these problems and he makes a statement like this.

The other concern I have is the 1½ percent money prioritized for alcohol and drug abuse. I know these are very critical remarks I am making, but——

Mr. **Taylor**. Mr. Brave Heart, I might just note something for the record. After we had that panel discussion from the Indian Health Service, I understand what Dr. Kreuzburg was referring to was the physical manifestations of the problem. Off the record, they acknowledged that, in fact, the preventive element of it or the dependency thing which essentially is a psychological problem has great similarities in the means that are necessary for treatment. I think we will probably get that more clearly on the record through some followup questions to IHS.

Mr. **Brave Heart**. OK.

I think also I would like to present some documents. These are just some issues I am concerned with.

I have a concern with the cooperation that needs to be between BIA and the Indian Health Service. I think the concern I also have is that Indian Health Service and BIA need to employ people that have quality training, that are sensitive to the alcohol and drug issues, and who are in the field. Too often, we are exploited with so-called experts that only have limited skills and knowledge in this alcohol and drug field. It is a different breed of cat that we are dealing with, and we need people who are trained. I can't emphasize that more. In my last two testimonies, I have emphasized that over and over again that we need quality people in this field.

We need young people. There are some people that are beginning to sober up, beginning to get quality education in the academic area, but also some of the other qualities trained that is needed to implement such a program are needed.

I am going to flow into some recommendations that we would like to see. Someone on the previous panel made a statement that we are in need of employee assistance programs. I think that we would like to also recommend that.

Schools that implement a prevention program can be very ineffective if it is administered by people who are poor role models.

An employee assistance program can remedy and can be involved to a point where, rather than lose a quality employee because of alcohol and drugs, can, in fact, save this person and he can come back and be very effective in his particular agency. That has been proven in our program. We have about 150 staff and about 52 of these people have gone for treatment, not all for alcohol and drugs, but we require all of our supervisors to go to some sort of quality treatment program so that they can be effective supervisors and be able to detect and treat and refer with quality service. So, it does work.

Also, training. The training, I think, should be of some quality. I think that there should be some sort of committee which can come up with some quality training centers; namely, training centers such as Hazelton, MN. It is probably one of the most updated quality programs in the country, and also Johnson Institute which is also located in Minnesota. These kinds of training programs I think have a good track record. Let's go with the programs that are working. Let's go with the winners. That is what we are saying.

Again, I think the Indian Health Service has employed in the past, at least in our area, some Indian and non-Indian experts and has done more harm and has confused and has prostituted the alcohol and drug field to a point where there is a lot of confusion out there, a lot of confusion. We should standardize training and standardize modalities and go with the ones that are working.

We would also like to encourage the family education component. Some of the things that have worked in our area, in our school system, are, as I just mentioned, the Employees Assistance Program. The Student Assistance Program is basically the same philosophy as employees assistance programs only it is working with the students in high school and grade school.

Also, the prevention curriculum should be institutionalized within the whole philosophy and curriculum component of the schools. Here is where the Bureau of Indian Affairs can take a leadership role in specifically doing this kind of thing. I hope we don't see prevention programs put in a closet. I hope we see prevention programs put on the same line as English and science and math, that is, not put in a closet so that it becomes visible and becomes a very viable component in our educational system.

The school team approach was a psychosocial model which was instituted by a government agency and it is working very well and it is working in our schools.

We have instituted two new programs that are working very effectively. One is called athletics and chemical health. This program is designed to train coaches and create a dialog between the students, the athletes, the parents, and the coaches. The communication is designed so there is a continuous monitoring of students so once they get in trouble with chemicals, then there can be a dialog and there is clear-cut explanation with the parents, clear-cut written rules so everyone knows what is going on. It is working very well in our program, because after all, we think that athletes and athletics is a high role model that sits well with our younger people.

Too often, schools take a double standard attitude with athletics and they let students in some schools get by with chemical problems and they deal very harshly with other students. Students see a double message here, and they are not going to buy some of the programs unless we deal specifically with high role models.

The other one is that we have just developed an intensive counseling program. We call it that, but what it really is is treatment. We have trained some people in Minnesota to come back, some of our counselors and some of our paraprofessionals, to develop a treatment modality in our school system. We feel that the school board is very cooperative in helping us get this program.

I think there are other models in the Nation. There are other Indian models that are working well. Let's not re-invent the wheel. Let's cooperate and share these ideas and prevent this most hideous problem with alcohol and drug abuse.

I would like to make this report that was conducted by the University of Colorado, "Drug Use Among Students at Little Wound School on the Pine Ridge Indian Reservation," available as part of the record.

Mr. TAYLOR. We would be glad to receive that. We may hold that in committee files or perhaps put some appropriate excerpts in the printed hearing record.[1]

Mr. BRAVE HEART. I thank you for listening.

Mr. TAYLOR. Thank you, Mr. Brave Heart.

Mr. HAWKINS, please proceed.

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[1] The report referred to by Mr. Brave Heart has been retained in the files of the committee.

STATEMENT OF RUSSELL HAWKINS, CHAIRMAN, SISSETON-WAHPETON TRIBE, SISSETON, SD

Mr. HAWKINS. Thank you, Mr. Taylor.

My name is Russell Hawkins. I am chairman of the Sisseton-Wahpeton Sioux Tribe of Sisseton, SD. I would like to thank everyone for this opportunity and privilege of giving the tribe's position on S. 1298.

First of all, I think there is a great need for this bill. We have approximately 4,500 youth enrolled at our tribe, many of which are involved in drug and alcohol related problems. Our court presently handles in excess of 200 cases a year, with 50 percent of its caseload alcohol and drug related.

What is alarming about these statistics is that we see no evidence of a decline. Quite the contrary, we see an increase with not only the abuse of alcohol and drugs but now even the more dangerous use or, I should say, misuse of glue, gasoline, Lysol, different things that cannot only deteriorate the mind, the conscience, the personality, but will kill you at a much quicker rate than the drugs that had been commonly used.

This problem is a great concern of ours. Our tribe, in 1976, created a juvenile intervention center at a great expense to the tribe in addition to the adult facility that we had because we were so concerned with the problem. We didn't feel that we were getting as much support from the BIA or the Indian Health Service as we should have.

That brings me to the criticism presently of the Bureau taking an adverse position to the passage of this bill. I am not really surprised at the Bureau taking this position. I think this is a very needed bill. It is a great bill, introduced and cosponsored by outstanding Senators who are truly aware of the needs of not just Indian people but all people. It is, in my opinion, a decision made on its merits, not for any particular race or creed but based on the need, and I commend the 14 Senators who cosponsored this bill.

The Bureau, by contrast, has taken a position adverse to this bill. I am not surprised, considering the past history of the BIA and their opposition to many good bills that would help tribes. I am not going to go into the BIA's infamous history at this point.

The BIA, in my opinion, is a cesspool of self-serving bureaucrats, which is disgusting enough, but when you consider who they feed on in terms of tribal members, the Bureau is even more revolting. We are talking about a small minority of people which are directly affected in their daily lives with the changing irrational whims of the BIA. We are talking about those who are more economically disadvantaged than any other minority, those in the greatest need of help. And, we are straddled by working with this agency which is apathetic, incompetent, and indifferent at best.

However, without going into that any further——

[Laughter.]

Mr. TAYLOR. Any further?

Mr. HAWKINS. Letting them off the hook easily, just on the numbers game, we are especially disappointed with the administration's priorities. When we look at the recent AID situation, we see $5 million taken out of the Indian Health Service that was to go to tribal members, in excess of 1 million tribal members. We see approximately 500,000 Indian youth in this country in great need of some type of preventive treatment, some type of immediate treatment, some type of post treatment, and we see the opposition to a bill that would eliminate a lot of problems, a bill that would serve as a foundation to the future of Indian communities.

We would urge that the administration take a second look at their position. Certainly, if they can find money to assist the 12,000 AIDS victims, they should find money for assisting 500,000 Indian youths. I do not want to discuss the morality issue as to how the AIDS victims acquired their disease. On the pure numbers game—which, incidentally, the tribes always lose with the Bureau of Indian Affairs in the common good versus the small amount of Indians in deciding for the common good argument—that same standard is not being used in the situation much to the tribes' disadvantage.

In conclusion, we strongly support S. 1298. Again, thank you for the time and opportunity to give our position on it. Thank you.

[The prepared statement of Mr. Hawkins follows:]

SISSETON-WAHPETON SIOUX TRIBE
OF THE
LAKE TRAVERSE RESERVATION
SISSETON S.DAK. 57262

September 16, 1985

STATEMENT OF RUSSELL HAWKINS, TRIBAL CHAIRMAN OF THE SISSETON WAHPETON SIOUX TRIBE, URGING PASSAGE AND ENACTMENT OF SENATE BILL 1296, WHICH WOULD PROVIDE FOR THE COORDINATION AND EXPANSION OF SERVICES FOR THE PREVENTION, IDENTIFICATION, AND TREATMENT OF ALCOHOL AND DRUG ABUSE AMONG INDIAN YOUTH.

On behalf of 3,370 enrolled youth of the Sisseton Wahpeton Sioux Tribe, it is a privilege to present testimony advocating passage of Senate Bill 1298. Passage of this bill would mean assurance that this Nation is committed to supporting our Tribe in its efforts to prevent and combat alcohol and drug abuse among our Indian youth, which has become a major devastation and source of unneeded grief in Indian family life today.

For the past 15 years, our Tribe has been a leader in developing, establishing, and administering prevention, educational, and treatment programs for those of our youth afflicted individually or as a family unit with alcohol and drug abuse. Unfortunately we have been alone in this struggle to save our youth, especially for those youth who have become delinquent or are victims of abuse and neglect. It is a tragic fact that our efforts have been met with token and lukewarm response, from those federal health and social service delivery systems, notably the Bureau of Indian Affairs and the Indian Health Service, who have the responsibility of joining forces with us for the task at hand. Instead, these agencies have denied and minimized the overwhelming significance of Indian youth problems with alcohol and drug abuse. It is in response to such callousness that we support provisions in Title I of the bill which directs the secretaries of Interior and HHS to join forces in coordinating and providing a foundation for beneficial programs for Indian youth.

Title II of the bill which requires the Bureau of Indian Affairs to provide a program of instruction in Bureau or 638 contract schools regarding alcohol and drug abuse also merits our full support. We urge, however, consideration for requiring Public School systems having more than 10% Indian enrollment which receive federal impact aid funds to be subject to the same provisions of Title II. We are witnesses to the example of school administrators and teachers, who do not effectively deal with a student having an alcohol or drug problem by either expelling the student, ignoring the problem, or worse, denying the problem. We assert that the high Indian student dropouts is caused by alcohol and drug abuse, either by the student or by the student's family. Furthermore, such students often are labeled as slow learners or as disciplinary problems, when in fact the problem is alcohol and drug related, which can be remedied.

The proposal in Title III of the bill to provide training programs about juvenile alcohol and drug abuse to a wide spectrum of service providers in Indian country also is wholly supported. This endorsement stems from our conviction that alcoholism and co-dependency are so prevalent in Indian country that it is primarily influential as a health, education, judicial, and law enforcement problem. It is absolutely essential that providers of such services in the community receive specialized training in alcohol and drug abuse as it pertains to Indian youth.

The requirement in Title IV of the bill for guidelines governing establishment and placement of Indian youth offenders in emergency shelters not only is needed but long overdue. In 1976, our Tribe at great expense constructed a juvenile detention center, located seperate and distant from the adult detention center. Our Tribe's request for federal assistance and utilization of resources went unheeded, not withstanding the growing incidences of juvenile delinquencies and offenses, which clearly were alcohol related. As a viable option, the Tribe converted the center into an intervention, diagnostic, and residential treatment center, serving the needs of 18 youth per month. This year we were forced to close the center owing to the lack of financial and other resources required to retain professional personnel and services for Indian youth.

During the past five year period, in our Tribal court system over 50% of all cases adjudicated deal with youth offenders whose offenses are all alcohol and drug abuse related. These cases, ranging from 135 to 200 per year do not include children who are who are victims of child abuse or neglect. The court's only remedy is probation at present, and this system is nearly powerless to deal with attendant offender needs such as treatment services. Such negligence has resulted in a range of tragedies which have been described accurately by the Association on American Indian Affairs in its recent report of findings and recommendations regarding juvenile justice concerns as it relates to alcohol and drug abuse.

The provision in Title V of the bill establishing juvenile alcohol and drug abuse treatment and rehabilitation services in IHS and 638-contract facilities is the most attractive feature of the proposed law, inasmuch as the Sisseton Wahpeton Sioux Tribe since 1978 has been a provider of inpatient primary alcoholism and chemical dependency treatment services in a Tribally constructed treatment center, funded by IHS P.L.93-638 contract funds. This effort can be enhanced by the proposed law. The urgency of this need becomes evident when considering the alcohol and drug treatment needs of 140 youth offenders as well as another category of Indian youth who are victims of alcohol related neglect and abuse. During the past twelve month period, the Sisseton Wahpeton Sioux Child Protection Agency provided child protective services to 598 Indian children, of which 240 Indian adolescents are in immediate need of alcoholism and chemical dependency treatment services. As victims, which include within one year 23 cases of physical abuse, 199 cases of child neglect, and 48 cases of child sexual abuse. Such youth find refuge in alcohol and drug use at very early ages ranging from 7 to 9 years; and within a short period of time addiction not only to alcohol and drugs occur, but also to gasoline, glue, and other inhalents. These problems become further compounded when teenage pregnacy happens, and the danger of Fetal Alcohol Syndrome surfaces. The evidence accordingly is overwhelming regarding the need for youth alcohol and drug treatment services.

In summary, Indian youth deserve a chance, and the type of investment proposed by Senate Bill 1298 shall serve as a long term commitment to the plan for a true and effective American Indian self determination and self-sufficiency endeavor. Enactment of this bill into law is urgently requested, since the needs of our youth are chronic in regard to alcohol and drug abuse.

Mr. **Taylor**. Thank you, Mr. Hawkins.

I have one question that I would pose to all three of you. We have talked here today about alcohol and drug abuse, and we have mentioned the standard drugs, marijuana and others. This inhaling of lysol and glue, gasoline huffing, and ingesting Xerox machine fluid seems to be a fairly new phenomenon, and you refer to it as something that is recently on the increase.

Mr. **Hawkins**. Let me elaborate on that just briefly, and I will tell you why. When you are talking about say, for instance, your jet set drugs like cocaine, 90 percent pure coke going for $3,000 an ounce and you have a tribal unemployment rate of 70 or 80 percent, you have people who don't have a nickel in their pockets. Their parents are unemployed. There are only so many things you can steal and hock on the reservation. Money is very tight. You do not have the money, the resources, the connection. There is not the market for the common drugs that you can use for some period before you start seeing the negative impact.

However, you can go down to your local hardware store, and you can get paint thinner, you can get antifreeze. You can go into a grocery story and get Lysol for $1.59 a can, and you start concocting things that will get you high. Subsequently, you will be able to obtain them more easily, but you will also deteriorate much more quickly. It is much easier for a kid to go get a pack of 59-cent glue and start inhaling that or go get a gallon of gasoline for $1.25 than it is to come up with $90 an ounce for some Columbian marijuana or, certainly, $3,000 an ounce for some cocaine.

So, the disadvantaged, the unemployed, the Indians are even getting the shorter end of the rope in dealing with the abuse of drugs and alcohol. We have had one incident where some individuals were so desperate recently that they started trying out antifreeze. One died, one became blind within 24 hours. We are not talking about treatment over 5 years.

So, it is on the increase. It is on the increase because it is cheaper, it is easier to obtain, and it is readily available.

Ms. **Wrenn**. I have two questions for all three of you gentlemen. First of all, earlier this morning when the Bureau of Indian Affairs was testifying, we were discussing ongoing programs in local areas. I believe they said that of the 183 Bureau-funded schools, which includes contract schools, kindergarten through grade 12, there were formal drug abuse and alcohol abuse prevention programs at 130 out of the 183 programs. They also said that in the 53 schools that did not have formal programs, there were local or informal types of programs set up with IHS or local communities.

Do you have local- or school-based programs, adequate ones, in the BIA-funded schools that are serving your children?

Mr. **Brave Heart**. We have about 16 schools on our reservation. We have the parochial, BIA 638, and public schools. I had the opportunity to work with four schools on our reservation. When they say program, three of those schools asked me to come in and give a 1-hour talk. That is all I know of their program, a 1-hour talk, and they consider that as an alcohol and drug program.

There is one school that is involved, but again, they are tied up with so much bureaucracy that they can't do anything. So, when I heard that this morning, I really questioned that.

And I had a chance to work with the United Tribes and also the tribes in Wyoming and Montana, and the same frustration is there.

Ms. WRENN. Mr. Horse.

Mr. HORSE. I want to make two comments. No. 1 will be to the children. You know, our children are innocent in mind and body. It is determined by its environment as to what that child can be or will be. Children will abuse anything that attracts their curiosity. I don't care whether it is glue sniffing, antifreeze, or gasoline.

I think the primary reason is whether the community that has it accessible to the children and also to the fact that in our situation where our children have nothing to do, let alone the public school system which has nothing to offer. The classic comment is that I hate to go to school because it is boring. They have nothing to offer there, but we have to abide by State attendance laws and so forth.

So, there are many, many little stressful areas that our children are subjected to within the community. The attitudes and the attitudes of the State and so forth has a lot of impact upon our children being raised in an environment. I think the Bible teaches that very clearly. To raise a child up in what we want him to be, that type of environment, is what will produce the problem.

My comment is in the area of—I didn't hear the comment of the Bureau of Indian Affairs representative this morning. I am not impressed or would be, I would assume, because I have to use myself as an example. I am a product of a boarding school. Unfortunately, in my time, they didn't have a whole lot of nothing but so-called discipline which was extremely enforced, and I know what the whole purpose was because I once read it in history, in one of the history books, and the classic statement was that, and it was made by a Senator from Missouri—no reflection on Missouri but the statement was made—that at all costs, we are going to have to assimilate the native American into the mainstream of society. What he forgot to mention was that we were here before he was here.

So, our society was once near pure. Unfortunately, our cultural, and our tribal laws, and so forth are not written to be adhered to. Therefore, we have a major conflict in their interpretation.

What I am trying to stress here is that it is a major problem of substance abuse and all the things that we talked about, but the State and the communities that condone—you know, it is very strange to drive down a street and find all kinds of things that are accessible provided you have enough money to get into it. You know, it is available. On the other hand, we spend billions of dollars trying to combat what we create.

I was driving through a little country town yesterday coming out of Colorado out in the plains area. The thing that caught my eye was on a side of way, a real nice looking store that had one there John Doe, this city's number one drug dealer. He was selling prescriptions and so forth. I presumed that was what he was selling. I didn't get a chance to stop to inquire to see what was really happening, but I wanted to throw that in as part of the comments.

I think that children have a tendency to be attracted to something that they don't understand, and we are part of that which creates that.

Thank you.

Ms. WRENN. Do you have anything to add, Mr. Hawkins?

Mr. **Hawkins**. The only comment that I would have is that what the Bureau says and what actually happens are two different things.

Ms. **Wrenn**. Thank you.

Mr. **Taylor**. I don't think we have any further questions. Thank you very much for your testimony here today. We will move on to our next panel. Thank you very much.

Our next panel is Steve Unger, executive director of the Association on American Indian Affairs; accompanied by Jerry Flute and Jack Trope.

I gather Steve is not here today?

Mr. **Flute**. Steve is not here.

Mr. **Taylor**. OK.

Your prepared statements will be made a part of the record as if you had read them in full, and I would urge you to summarize. I don't know which of you is the coordinator here, so you may proceed as you wish.

STATEMENT OF JERRY FLUTE, ASSISTANT DIRECTOR FOR COMMUNITY DEVELOPMENT, ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC., NEW YORK, NY, ACCOMPANIED BY JACK TROPE, STAFF ATTORNEY

Mr. **Flute**. Mr. Chairman, members of the committee, members of the staff, my name is Jerry Flute, staff member with the Association on American Indian Affairs. With me is Jack Trope, who is our staff attorney.

I would like to state first of all to the committee and staff that I find it appalling that the administration would use Indians as a part of its attack force to testify against this piece of legislation. I think that is very underhanded, a discredit to those Indian individuals who are required to come here before this committee to testify on this legislation.

I would like to also point out that the administration's position today is typical of what has been happening over hundreds of years in this country. Recently, former Assistant Secretary Fritz was on a nationally televised C-SPAN call-in program. I was fortunate enough to get a call into Fritz and ask him if he was aware of H.R. 1156 which is a companion to this bill in the House. I asked him the position of the Bureau on this piece of legislation.

On national television, Mr. Fritz said the Bureau endorses this bill wholeheartedly. Today, we hear that the Bureau is opposed to this piece of legislation.

Mr. **Taylor**. Does that suggest that perhaps there was a reversal of decision at a higher level?

Mr. **Flute**. I would suggest that might have been one of the reasons that Fritz is no longer there.

Second, the companion bill in the House has had field hearings in South Dakota, Arizona, New Mexico, and I am sure the record will show that BIA and Indian Health Service officials working in the field where this problem is most prevalent testified in favor of H.R. 1156 with significant recommendations for improvement of that bill. Again, today we hear Indian Health Service and BIA officials from the Washington level opposing this legislation.

Some of those people that testified included the area directors for Indian Health and BIA in Aberdeen. Both individuals expressed their support for this legislation. I think this indicates a more urgent need for the Congress to include in this legislation congressional mandate to force these agencies to coordinate and to work with Indian tribes in the formulation of programs that would attempt to prevent and treat juvenile alcohol and drug abuse.

The very fact that the staff people are in support from the field and the Washington-level bureaucrats are opposed to it should demonstrate to this committee that the language in both pieces of legislation is urgently required

The administration, particularly with Interior's testimony, made reference to a piece of legislation enacted in the Congress in 1886 which requires the Bureau to have programs in its schools to prevent and treat alcohol abuse. Here we are almost 100 years later, and you heard the testimony of the administration that programs were begun in the BIA schools 1½ years ago. Clearly, there is an urgent need for the Congress to mandate and to assure that its policies are carried out by the administration.

Why does it take 100 years for the BIA to finally recognize there is a problem with juvenile substance abuse when the Congress 100 years ago passed legislation requiring this? I think this is a serious question that should be brought to the administration.

The Association on American Indian Affairs has been working in the area of youth concerns for many numbers of years. The Indian Child Welfare Act is an outgrowth of AIAA's work in this area. Recently, we conducted a survey in the Aberdeen area in the Great Plains of North Dakota, South Dakota, and Nebraska on the issues of youth, particularly in the area of alcohol and drug abuse. We found a number of severe and serious problems on all 15 reservations. We found a growing concern by tribal leaders, community members, parents, grandparents with the increased use of substances.

We talk about inhalants. Within a depressed economy, where there is no money to buy the kinds of narcotics that are otherwise available, you can go to any junkyard and huff gas for free, and this is what kids are doing. You can go into hardware stores. You can use Lysol spray. You can use paint. All of those things are available to many of the kids.

We have heard similar reports from Alaska. In December 1985, we had the opportunity to visit three Native villages—Port Graham, Seldovia, and Tyonek, small communities where they have a concern now about kids huffing gas. In those communities, the predominant method of transportation is either snowmobile or a three-wheeler. These vehicles require gasoline and, again, are readily available to the children.

The medical community has suggested that gasoline has a chemical ingredient similar to PCP in that it begins to destroy the brain cells very quickly. In the course of our survey in the Aberdeen area, we found several cases of young children diagnosed as being brain dead and currently in nursing homes with a long history of huffing gasoline. On the Rosebud Indian Reservation, they had seven youth suicides last year; from the reports given to us, four of these kids had a history of huffing gasoline. Rosebud was also one of the reservations that indicated a high degree of violent crimes committed by juveniles. In all cases, the crimes were committed by the kids when they were under the influence of some type of narcotic or chemical.

We find that in the Aberdeen area, there are virtually no organized youth recreational activities, an important ingredient which is not in the Senate version of this bill compared to the House bill. We feel that recreational opportunities are crucial, and should be in the legislation.

We talk about detention facilities. There are very few if any approved detention facilities in Indian country for detaining juveniles. Again, we heard the administration talk about its policies and its actions regarding detention facilities, the fact that they claim that they have programs in the schools. In our study, we did not find this to be true. Quite the contrary.

In one instance, on the Devils Lake Reservation, we found that youth were being incarcerated with adults in the jail. The tribe had been attempting for many years to have a separate juvenile detention facility constructed. Such a facility was built on Devils Lake 2 years ago. It was designed by the BIA, constructed by the BIA, and it was ready to be used by the juveniles who required detention when a study by the Bureau of Prisons found that it met none of the standards for juvenile detention. The facility was closed before it was even opened.

The building was constructed 2 years ago, and I was at Devils Lake a couple weeks ago and the facility still is not open. I would suspect that in some cases, some juveniles are still being incarcerated with adults.

This problem was brought to the attention of the area director who reported to the tribe that this facility would be renovated according to standards to qualify it for juvenile detention in this fiscal year—this fiscal year which has almost ended now—but nothing has been done to that facility.

We also found that there are only two programs for treating adolescent substance abusers in the Aberdeen area. Although most of the tribes have alcohol and drug treatment programs, only two are designed to treat juveniles. You have the Project Phoenix on Pine Ridge which is a residential treatment, and there is also a prevention and treatment program on the Cheyenne River for juveniles. None of the other alcohol programs on reservations are geared toward juveniles, nor do many of them allow their programs to be used by juveniles.

We have also found that in areas where there was community and parental support for youth activities, there was a decreased incidence of juvenile misconduct. An example that I would like to share with this committee is the Turtle Mountain Reservation in North Dakota. The community of Belcourt is predominantly Turtle Mountain Chippewa. Very few non-Indians reside there. The community has a number of the normal civic organizations that you would find any place else in this country—the Jaycees, the Kiwanis, the Elks Club, and the Moose Club. All of these civic organizations sponsor youth activities, ongoing year-round programs. They sponsor Boy Scouts, Girl Scouts, Cub Scouts. They have winter recreation, including sports such as hockey. In this particular community, it was reported to us that there is very little problem with juvenile delinquency, very little problem with vandalism, very little problem with any substance abuse.

That would lead me to the conclusion that with these kinds of activities, particularly recreational, and the fact that you have adults—including parents—who are supporting these activities, all the main reasons why that community does not have the immense problems that you see on other reservations. Again, it is a justification for including recreational programs in the Senate version of this bill.

We have submitted for the record a number of recommendations which I am sure the staff will be involved in reviewing. At this time, I would like to share my time with Jack Trope, our staff attorney, in the event he may have additional comments.

Mr. Trope.

Mr. TROPE. I will make this as brief as possible. We have submitted detailed recommendations for the bill, and we hope and trust that you will carefully consider those, although we are not so naive as to expect that they will all be adopted. However, we think some of them will certainly be found worthwhile, and we hope you will place those improvements into the bill.

I just want to touch on a few of the major thrusts of our suggested amendments. Jerry has already touched on a few. One involves the inhalant problem. You have heard a great deal about that in testimony today, and we would like to see specific language in this bill relating to the inclusion of materials or inhalants in education and training programs, because it is not entirely clear that the treatment procedures for this problem are the same as for alcohol or other drugs, and we believe that in most alcohol and drug treatment programs not much attention is paid to the inhalant problem. However, on the reservation, it is a serious problem, maybe more so than in some other areas of society.

A second recommendation which we make most strongly, and Jerry has touched on this so I won't belabor it, is the need for recreational programs as part of a preventive strategy. Youth must have something else to do. It is that simple. To treat the symptom without treating some of the underlying causes would really not give you as much bang for your buck, I think, as would approaches which deal with those causes.

The third thing that I would say is that these agreements to be developed and studies to be done must include local input. This is one of the few areas in which I find myself in agreement with the BIA; namely, that you need the coordination on the local level. To the extent that something is done on the national level, its purpose should be to facilitate local coordination and not simply to create some structure in Washington that has no impact at the local level.

The fourth thing I would like to mention is funding. We feel that it is important that there be adequate funding to implement this bill. If it is passed and funding is in adequate, it really won't do much, if any, good. I would ask the committee to keep in mind that the effects of alcohol and drug abuse down the road in terms of treatment costs, in terms of incarceration costs, in terms of crime and health costs is far greater than the amount that you would be spending today to try to prevent many of these problems. Hopefully, when you pass the bill, we hope that this committee will make it clear to those on the Appropriations Committee—and I believe some of the Senators here may be on the Appropriations Committee as well—that adequate funding to implement this bill is important.

Aside from that, I will simply refer you to our written statement for the specific recommendations we have made in a number of areas and hope that you will give it close consideration. Thank you for giving us this opportunity.

[Mr. Flute submitted a joint prepared statement with Steve Unger, executive director of the Association on American Indian Affairs, Inc., on behalf of the association. Testimony resumes on p. 141.]

ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC.
95 MADISON AVENUE NEW YORK, N. Y. 10016

STATEMENT OF STEVEN UNGER, EXECUTIVE DIRECTOR

&

JERRY FLUTE, ASSISTANT DIRECTOR FOR COMMUNITY DEVELOPMENT

ON BEHALF OF THE

ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC.

DELIVERED BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

HEARINGS ON S. 1298
INDIAN JUVENILE ALCOHOL AND DRUG ABUSE PREVENTION ACT

SEPTEMBER 18, 1985

ACCOMPANIED BY:
JACK F. TROPE, STAFF ATTORNEY

Mr. Chairman and members of the Senate Select Committee on Indian Affairs, it is an honor for us to be here today to testify on behalf of the Association on American Indian Affairs, Inc.

The Association is a national citizens' organization headquartered in New York City and dedicated to American Indian and Alaska Native rights. Policies and programs of the Association are formulated by a Board of Directors, the majority of whom are American Indian and Alaska Native. The Association is an independent organization, entirely supported by its approximately 50,000 members and contributors, Indian and non-Indian.

I am Steven Unger, Executive Director of AAIA. My testimony today is offered jointly with Jerry Flute, AAIA Assistant Director for Community Development. We are accompanied by Jack F. Trope, staff attorney.

This Committee is to be complimented for its continuing interest in Indian youth. We are pleased to note that a bipartisan majority of this Committe has joined in introducing S.1298, the Indian Juvenile Alcohol and Drug Abuse Prevention Act. Sadly, such an initiative has not come from the Administration. Congressional attention to the needs of Indian youth is crucial in that administrative agencies often fail to address these needs -- or to respond to Indian tribal concerns, absent such Congressional interest. We hope that this legislation will be enacted expeditiously, as it is an important first step in dealing with the problem of substance abuse among Indian young people.

Before discussing the specifics of S.1298 it is important to quickly pass in review the social and economic factors that contribute to drug and alcohol abuse among American Indians. It would be shortsighted to consider the problem of substance abuse by Indian youths without recognizing the devastating, socially disruptive forces that are a major cause of the problem.

For most Indian young people residing on reservations the prospects for meaningful employment are bleak. Nationally, Indian unemployment on or near reservations has been hovering at about 50% for the last five years, according to BIA statistics. A number of reservations, such as Standing Rock in North Dakota and Pine Ridge in South Dakota, have unemployment rates in excess of 70%. The recent national economic recovery has again bypassed American Indian reservations in most states. For instance, North Dakota's unemployment rate has dropped from 5.9% in 1982 to 5.3% in June of 1985. Indian unemployment in North Dakota, however, has grown from 52% in 1982 to 57% in 1985. Nationally, the unemployment rate for all races has dropped 27% from 1982 to 1985, while the Indian unemployment rate has actually risen 7% during the same period, according to Department of Labor and BIA statistics.

The job opportunities that do exist for young American Indians and Alaska Natives often do not provide the economic or personal incentives that encourage achievement and reward educational accomplishments. In January of 1985, the BIA reports, 77% of employed Indian people on reservations were earning less than $7,000 per year. The average U.S. Senate page -- typically a student in his or her junior year in high school -- earns $9,900 per year, 41% more than what over three-quarters of adult American Indians earn on reservations.

The impact of prolonged periods of high unemployment and the complete lack of economic and job opportunities for American Indians is staggering in human terms. An empirical study prepared for the Joint Economic Committee of Congress a few years ago found that a 1% increase in the national unemployment rate sustained over a six-year period is responsible for a 1.9% increase in deaths from cirrhosis of the liver, a 4.1% increase in suicides, a 5.7% increase in homicides and a 4.0% increase in state prison admissions.

The Joint Economic Committee formulated its conclusions by analyzing the U.S. population with a base unemployment rate of 4.9%. With unemployment rates exceeding 50% on a majority of Indian reservations for years, it can cautiously be inferred from the Joint Economic Committee report that the American Indian population would be expected to have astronomically high rates of suicide and homicide, epidemic occurrences of cirrhosis of the liver, and a majority of the Indian population residing in state prisons. It is a tribute to the strength and determination of Indian communities that these pathologies, devastating as they are to Indian tribes, still do not approach the magnitude that would be expected in the general U.S. population when national unemployment is high or rising.

Statistics of course cannot measure the family stress and wounds to body and soul that Indian people experience because of prolonged unemployment. Improving the economic climate of reservations is a vital step in reducing the alcohol and drug abuse problems of Indian youth.

The thrust of this bill is to provide services for Indian youth. One needs always to bear in mind that there are immense differences between American Indian tribes based on culture, geography, history (including the history of Indian-white relations for each tribe) degree of assimilation, language, and so forth -- not to mention the difference between Indians and non-Indians.

Culturally, Indian children are profoundly different from their non-Indian contemporaries. Indian children growing up sometimes experience discrimination by non-Indians because they look and often behave differently. Educational materials used in the classroom are notorious for their frequently pejorative portrayal of Indian life. What self-image of the child and the tribe is conveyed? What expectations for adult life does the child absorb? Does the child feel welcome in the school or alienated from it?

The situation of American Indians has sometimes been characterized as "aliens in their own land." Indian children grow up having to live in two worlds, the enduring traditional tribal world, and the world of America in the 1980s. Indian leaders (and non-Indians working in the field of chemical dependency) often speak of the "conflict between the cultures" as creating great problems for Indian youth. We know well, and indeed this bill is in part a response to this knowledge, that these problems all too often manifest themselves in alcohol and substance abuse. The more this Committee's initiative with S.1298 is sensitive to these cultural differences, the more effective it will be.

A stable and encouraging family environment with parental care and supervision obviously contributes to healthy and drug-free Indian youth. Unfortunately, for approximately 20,000 Indian children -- thousands under ten-years old -- even their education means the absence of normal family life, for today they are sleeping in BIA boarding schools and dormitories.

Many youth counselors are convinced that boarding schools contribute to alcohol and drug problems among Indian youth. The anachronistic boarding schools, the product of a now-discredited era of racism and paternalism, continue a system that contributes to alcoholism and makes effective counselling impossible because of the separation of Indian children from their families. How many more Indian youngsters must suffer in the twilight paroxysm of the boarding schools before the federal government finally assures day schools for all Indian families who want them.

The absence of social programs and recreational facilities on Indian reservations means that Indian and Alaska Native youngsters grow up in an environment where drug and alcohol abuse may seem to be their only release from a world that sometimes must seem determined to beat them down.

A recent AAIA study, conducted on fifteen reservations in Nebraska, South Dakota and North Dakota, found that an acute lack of services for Indian youth was a deep concern of tribal leaders. Eighty-seven percent of the tribes surveyed indicated that their reservations had few cultural and social activities for young people. Those activities which are available, such as sports, are largely confined to the school year, and summertime leaves youths without places to go for recreation.

Summer sports that often do exist in more well-to-do communities, such as Little League baseball, often require private sponsors to purchase uniforms and equipment. But in a depressed economic environment there are few Indian merchants with extra cash to support Little League baseball. We remember a few years ago when a group of Navajo Little Leaguers, often being rejected in their pleas for help from local non-Indian merchants in Farmington, New Mexico, washed cars and did odd jobs, and then in desperation turned to our Association in New York for help -- just for gas money so their coach could drive them to the games. An AAIA grant of $300 made possible a constructive summer activity for these Navajo youngsters, allowing them to play as equals with their non-Indian peers.

The majority of tribes surveyed expressed a need for year-round, constructive activities for their young people. Indian children, like non-Indians, need outlets and activities that build their self-esteem, not destroy it. In our interviews, a sense of frustration was frequently expressed by tribal leaders who felt hindered in their attempts to provide alternatives for youth because of inadequate resources. Tribal community members were discouraged because the programs that do work to prevent youth alcoholism and drug abuse, such as youth summer camps, Boy Scouts and Girl Scouts, a local YMCA or athletic leagues, are underfunded, scheduled for elimination, or just don't exist.

The results of our study indicate a clear relationship between the presence of drug and alcohol abuse and the absence of youth programs and activities on reservations. A survey of reservations in other parts of the country would undoubtedly yield similar results. (A copy of our study, which addresses a wide range of issues relating to Indian youth, will be submitted to this Committee later and we ask that it be incorporated into the record of these hearings.)

Given the background upon which the question of substance abuse must be considered, perhaps what is surprising is not that there is a substance abuse problem on Indian reservations, but that so many Indian youths do not fall into the alcohol and drug trap.

Nonetheless, the statistics indicate a serious problem and provide strong evidence that legislative initiatives addressing substance abuse among Indian youths, and its underlying causes, are sorely needed. A 1984 study, prepared by Colorado State University and based on a sample of 10,000 Indian students on forty reservations, indicates that 51.8% of Indian adolescents are engaged in moderate to heavy alcohol or drug use. In comparison, 23.3% of urban non-Indian students are engaged in similar activities.

If the general U.S. population had the same percent occurrences of heavy drug and alcohol use as Indian adolescents, AAIA calculates there would be 36.5 million people in the U.S. with debilitating and destructive drug and alcohol habits.

The latest U.S. Indian Health Service statistics indicate that Indian mortality related to alcoholism is 5.6 times higher than the national average. Suicide rates for Indian youths between 15 and 24 years of age are 2.3 times that of the national average. The statistics do not indicate what percentage of the suicides are drug or alcohol related, but it seems safe to assume that at least some of the self-inflicted deaths are associated with substance abuse.

The drug and alcohol problems of Indian youth have been at epidemic levels for many years. The Reagan Administration has publicly encouraged Indian self-determination, but when tribes attempt to formulate programs and legislation that attack drug and alcohol abuse, the Administration withholds support or proposes further cutbacks. The reauthorization of the Indian Health Care Improvement Act, which was vetoed by the President last fall, had important provisions which addressed the problems of youth alcohol and drug abuse.

The Administration has gone beyond passive resistance to Indian alcohol and drug prevention and treatment programs by consistently submitting budgets with significant reductions in those Indian community-based programs that would help tribes effectively deal with alcohol and substance abuse.

The constant attempts by the Administration to eliminate the Community Health Representative program of the IHS is but one example. Fortunately, this Committee and the Congress as a whole have listened to Indian tribes (and AAIA) and consistently restored funds to the demonstrably-effective Community Health Representatives. The Administration's FY 1986 budget for IHS again proposes a 5% reduction in Indian alcohol prevention programs and lower funding levels for health clinics and public education programs that have been successful in preventing alcoholism and drug abuse. The Administration seems to feel that models based on comparatively well-to-do urban health facilities are adequate to meet the needs of a rural, impoverished, culturally unique, Indian population.

The social costs of not providing drug and alcohol prevention and treatment programs for Indian youth should be evident. When Indian children misuse drugs and alcohol they are more likely to be involved in juvenile mischief, anti-social or self-destructive activities, criminal acts or be admitted to clinics and hospitals for emergency treatment. Society foregoes the contributions of a productive member of the community when that individual is ravaged by drugs and alcohol. Education, treatment and prevention measures will reduce the costs to society in the long run if Indian children are discouraged from using drugs and alcohol today.

Following is our analysis of the provisions of S.1298 and our recommendations for improving the bill based on our experience in working with Indian tribes.

TITLE

We recommend that the word youth be substituted for juvenile throughout the bill. The word juvenile has acquired a negative, legalistic, connotation in popular usage which should be avoided. (For example, an Indian youth studies drums; an Indian juvenile is a delinquent.)

TITLE I - INTERDEPARTMENTAL AGREEMENT

The coordination of existing resources can hardly be faulted. The §101 Washington-based interagency agreement, however, should serve to facilitate locally-based, tribal-specific agreements rather than attempt to definitively resolve individual agency conflicts. It should provide general guidelines to be utilized at the local level, but each locality must be given the flexibility to structure the system to meet its unique needs. Thus, §102 is the more important section in Title I, although, by itself, it is inadequate.

First, §102 should provide for a tribal request for the preparation of an agreement to be sent to the local BIA agency superintendent, rather than to the Secretary of Interior, and the agreement should involve local officials from BIA and IHS, not Washington-based officials. Only then do we believe that such an agreement will be useful. H.R. 1156, a bill with similar purposes which has been introduced in the House, provides for a locally-based process and we believe that to be a preferable approach which should be considered by this Committee.

Secondly, and most importantly, §102 presently contemplates only a coordination of existing resources. This is not enough. §102 should be amended in Committee to institute a planning process -- an evaluation of what is required for an effective alcohol and drug abuse prevention program and a plan for reaching that goal. A provision for contracting in the manner of the Indian Self-Determination and Education Assistance Act (P.L.93-638), 25 U.S.C. 450 et seq., should be available to tribes or inter-tribal organizations (with approval by the individual member tribes) who wish to design the programs directly. The BIA agency superintendent, BIA education superintendent, and the IHS service unit director should be responsible for developing these plans on a local basis in those instances where tribes request a §102 agreement and are unable to develop such plans themselves.

Another salutary amendment to this section would be a provision in the bill that tribes specifically receive notice of their right to request that an agreement be prepared. Too often the executive branch fails to inform tribes of Congressionally-mandated rights of this sort without specific legislative direction.

Moreover, tribes should have the option of deciding whether the agreements should include the tribe or whether an intra-governmental agreement between the agencies would be appropriate. This option should be included because some smaller tribes may not have the resources available to them to protect their interests in negotiating an agreement involving the BIA and IHS and might be reluctant to request such an agreement for that reason.

Finally, while tribes presumably would be permitted to contract to administer those services contemplated by this Title pursuant to §102 and §103 of Public Law 93-638 (25 U.S.C. §450f and §450g), it would be useful to specify in this bill that a tribe may modify those services for which it contracts in order to meet local needs.

Tribes have often complained of rigidity in the 93-638 process. This provision would ensure maximum flexibility for those tribes with the capacity to shape their own programs and dovetail with the planning provisions that we have suggested. It would be consistent with the President's statement on Indian policy of January, 1983 in which he committed his Administration to "a flexible approach which recognizes the diversity among tribes and the right of each tribe to set its own priorities and goals."

TITLE II - EDUCATION

A. In-School Instruction

We support §201 which requires BIA and BIA contract schools to provide a program of instruction regarding alcohol and drug abuse for students in grades K-12. The BIA needs to be prodded by Congress if it is to fulfill this responsibility. Earlier this year, the Standing Rock Sioux Tribe brought to our attention that an Act passed by Congress on May 29, 1886 (24 Stat. 69) already requires such instruction. The pertinent part of that Act is quoted in the BIA Manual (62 BIAM 5.4). That Congress in 1985 must direct the BIA in this legislation to do what it required the BIA to do a hundred years ago is a good example of how the Bureau often thwarts the will of Congress. We are pleased to see Congress again instructing the Bureau and hope that it will not take another five generations of Indian children before the BIA acts on your instructions.

We also support §201(b) requiring that the program developed be tribally-specific with local input. H.R. 1156, the House version, does not include such a provision. Its inclusion in S.1298 is important and we hope that it will be in the legislation that finally reaches the President's desk.

We also support section 201(c) which encourages family participation in the instruction contemplated by this section.

We believe that a section should be added to this title to address the issue of drug and alcohol curriculum in public schools on or near reservations which serve significant numbers of Indian students. However, we recognize that mandatory alcohol and drug abuse instruction limited to Indian students in public schools could lead to the ridicule of Indian students by their non-Indian peers. Thus, a mandatory requirement that Indian students in public schools on or near the reservation must receive alcohol and drug abuse training may not be desirable. Nonetheless, the resources for providing such instruction should be made available for use where Indian parents so desire. Accordingly, we believe that §304 of the Indian Elementary and Secondary School Assistance Act (P.L.81-874), 20 U.S.C. §241cc -- the statute authorizing distribution of Johnson-O'Malley funds -- should be amended to permit, but not require, the use of Johnson-O'Malley funds to develop and implement curriculum relating to alcohol and drug abuse. This of course should be at the initiative and discretion of Indian parents with children in the affected school system.

It is worth noting also that H.R. 1156 includes amendments to §304 of P.L.81-874 which would permit Johnson-O'Malley funds to be used for "the training of counselors at schools eligible for funding in counseling techniques relevant to alcohol and drug abuse." We believe that this amendment is also desirable.

We also believe that the bill should be amended in Committee to provide explicitly that the curriculum include materials on inhalants and Fetal Alcohol Syndrome. In our study of fifteen tribes, many said that the use of inhalants on their reservations was a problem. Eighty percent said that inhalants are used and several respondents mentioned that the inhalants seem to be more in use by the younger children, ages 8-12, probably because inhalants are easier to obtain. The inhalants mentioned the most frequently included correction fluids, thinners for these substances, office machine chemicals, gas, spray paint, Lysol spray, and other household products for cleaning. According to 1980-81 data from Western Behavioral Studies, 30% of Indian youths in grades 7-12 have tried inhalants. (A survey of non-Indian city youth revealed that 10% had tried inhalants.) Thus, we believe that this legislation should specify that inhalants must be included in the education curriculum. Otherwise they may be ignored in developing the program, given the relatively low incidence of such use in the general populace.

Likewise, Fetal Alcohol Syndrome (FAS) is increasingly a problem on reservations. Recently, an IHS physician told one tribe that, if the present trend continues, virtually all of the next generation of children on the reservation will suffer from Fetal Alcohol Syndrome. Inclusion of FAS materials is specifically mandated by §301 of this bill in regard to the training materials to be developed. Explicit mention of FAS is desirable in this section as well to ensure that this topic is included in the school curriculum.

Finally, there should be a provision added to §201 of this bill providing that the program should include a mechanism for intervening with individual students at risk, as well as general instruction for all students.

B. Summer Recreation Programs

If this legislation is accurately to be classified as a preventive approach to the problem of substance abuse, recreation and counseling programs for Indian youth on reservations must be included in this bill. BIA schools and schools operated by tribes under contract to BIA, as well as other public and private facilities that can be made available, should be utilized for such programs and salaried coordinators for these programs should be provided as needed. Tribes should have input into the design of these programs and they should be available on a year-round basis. Drug and alcohol information should be made available as part of such programs.

The evidence from our study of fifteen reservations in the northern Great Plains indicates that such a provision is a crucial component of an alcohol and drug abuse prevention bill. There is perhaps no better preventive medicine than constructive activities for youth.

H.R. 1156 includes, as §205, summer recreation programs for youths. Its inclusion there recognizes the importance of youth recreation programs to any preventive strategy. §205 of H.R. 1156 is inadequate, however. We urge this Committee to add an improved version of §205 of H.R. 1156 to this legislation along the lines we have suggested in this testimony.

TITLE III - FAMILY AND SOCIAL SERVICES

We generally support the provisions dealing with the creation of a moderate training regimen for a wide range of individuals who work with Indian youths. We particularly welcome §301(b)(3) which mandates that training be provided in local Indian communities, whenever practicable, at low or minimal cost, and as part of an integrated program. This subsection significantly increases the possibility that the training will be meaningful and reach those persons who most need it. Such a section is lacking in H.R. 1156 and this Committee is to be commended for including this important provision.

We suggest, in addition, that explicit language be included in this title providing that training materials be culturally sensitive to the unique culture and living conditions of Native Americans in terms of child development, sociology, psychology, preventive strategies and family life. Training in child development generally should be an integral part of the training materials.

Again, methods of treating inhalant abuse should be part of the training program.

We suggest that this section should also provide for the development of two additional types of training materials. First, a more extensive set of materials should be developed to train those who plan to work as full-time youth counselors. In AAIA's study of the Great Plains reservations, many tribes indicated that they desired more trained personnel to provide counseling services to their youth. Although most tribes had ongoing programs for the treatment of alcoholism, only two had programs specifically oriented to youth. Some tribes told us that they fear that their alcohol programs are not as successful as they could be because they do not have skilled and trained counselors who know how to intervene specifically with youths. Thus, a training program should be developed that would be more rigorous than the basic program, but abbreviated in scope as compared to that offered by a college degree program. This would help meet the need reported to us by many reservations.

Secondly, a set of materials dealing with alcohol and drug abuse prevention and parental skills might be developed, perhaps in pamphlet form, which would be less extensive than the "basic training" materials, and made available for distribution to any interested member of the Indian community. Community awareness and training for prospective parents is likely to help reduce the incidence of substance abuse.

These amendments would establish a broad yet focused training system which we believe will provide a change for the better for Indian young people.

TITLE IV - LAW ENFORCEMENT

The concept of emergency shelters in lieu of incarceration for Indian youths is an idea worth trying. However, we have a number of questions in regard to this Title as currently drafted.

First, S.1298 provides for placement guidelines for juvenile offenders to be promulgated by the Secretary of the Interior, in consultation with the Attorney General. We believe that there must be a provision, consistent with section 402(a)(2) of H.R. 1156, that the guidelines to be developed and the placement preferences to be established under this Title "shall not supersede any tribal law."

The concept of self-determination has been the cornerstone of federal Indian policy for this generation. The Indian Child Welfare Act, for example, explicitly permits Indian tribes to set their own priorities for the foster care or adoptive placement of Indian children which supersede the priorities set in that Act. It would be a step backward to limit the tribe's right to decide upon the placement of their youths in a case where juvenile delinquency is involved. The tribal government certainly has no less an interest in these youths than it has in its youths generally. The Indian Child Welfare Act is precedent for permitting tribes to modify federally-set guidelines applicable to non-tribal judicial proceedings and this bill should follow that precedent. We believe that this point of view is consistent with the policies generally followed by this Committee.

A second problem with this Title involves the mechanism established for the creation of emergency shelters. S.1298 provides that the shelters shall be established by the Secretary of the Interior with the concurrence of the Secretary of Health and Human Services. H.R. 1156, on the other hand, provides that "households of Indian families will be compensated to serve as temporary emergency shelters..." We believe that a community-based program utilizing appropriate Indian families is preferable to a program administered by the federal government.

In that regard, the tribes should have the ability to exercise more control over the program should they choose to do so. Although §401(b)(2) requires that the tribe must approve each shelter, it also provides that the BIA will develop guidelines for licensing the shelters. A uniform set of BIA standards for such shelters may serve to inhibit rather than encourage their establishment. Tribes have different needs and resources. Provision should be made for tribes to establish their own set of standards for such shelters that would, upon adoption, supersede BIA regulations.

Thirdly, S.1298 is ambiguous about whether non-prison alternatives for the placement of youths should be preferred. We would like to see language, akin to that in H.R. 1156, clarifying that placement other than incarceration is to be preferred.

Finally, we suggest placement with the juvenile's own family as one of the preferred placement options. Indian youths with an alcohol or drug abuse problem are often best treated as part of a family network and not in isolation. Trained social services workers can be utilized to work with the family and the court-referred youth where necessary. The court may, of course, place a youth elsewhere when it would benefit the youth or where the community requires alternative placement. However, the programs established by this bill should reach out to families, including the Indian extended family, wherever possible. By including family placement as one of the preferred options, Congress will send a clear message that Indian families may feel encouraged, not threatened, by a new federal program. Similarly, the courts need to be encouraged to use the Indian family as a resource.

TITLE V - JUVENILE ALCOHOL AND DRUG ABUSE TREATMENT AND REHABILITATION

We think that the study and program contemplated by Title V is useful. Moreover, we welcome the provision in §502 mandating consultation with Indian tribes. This is an important provision not present in H.R. 1156. The co-sponsors of S.1298 deserve credit for including it.

We have two suggestions for improving this Title. First, we believe that it should specifically provide that the study be conducted from the ground up -- in other words, that the needs assessment be developed at the local level, after which a national study would be developed building upon the local studies. We think that such an approach would help assure that the Administration and Congress have available to them solid information that respects, rather than obscures, the cultural integrity and specific needs of each Indian tribe.

Secondly, there should be a provision allowing that the local studies may be contracted out to Indian tribes or multi-tribal organizations. This approach would help assure that programs are crafted to meet the actual needs of individual Indian tribes.

TITLE VI - DEFINITIONS, EFFECTIVE DATE, AND AUTHORIZATION OF APPROPRIATIONS

A. Definitions

The definition of "Indian" should be expanded to include those who are eligible for membership in a tribe but who are not presently members. In some cases, youths may not have actually applied for membership even though they may qualify for it. The Indian Child Welfare Act (P.L.95-608) utilizes this more expansive definition.

The definition of "Indian tribe" also needs amendment. The present definition as it relates to Alaska includes the village and regional for-profit corporations established by the Alaska Native Claims Settlement Act (ANCSA) (P.L.92-203). However, those corporations do not provide the type of services covered by the bill. It would be more appropriate to refer to the regional non-profit Native associations identified in section 7(a) of ANCSA, 43 U.S.C. §1606(a).

We are pleased to see that the bill extends the definition of juvenile to include eighteen-year-old youths. (H.R. 1156 covers only those under 18.) S.1298 is superior in our view.

B. Funding

We believe that the provision authorizing such sums as are necessary is preferable to the $5 million limitation in H.R. 1156. However, we are not sanguine about the probability that sufficient amounts will be requested by the Administration to fully fund these programs. If this bill is to be meaningful, adequate sums to implement this bill must be appropriated on a regular basis. Perhaps an amendment should be made to this Title saying that it is the sense of Congress that "such sums as may be necessary, but not less than $5 million..." be appropriated until such time as Congress is satisfied that these programs are having their intended effect.

Moreover, Congress should not view this bill as a cure-all. Other funding sources must continue to be made available to tribes and their availability should be expanded wherever possible.

CONCLUSION

We hope and trust that you will carefully consider our recommendations for improving S.1298. This Committee has in the past taken a leading role in developing legislation establishing programs for Indian families and youth and the interest and concern of Congress continues to provide hope to Indian tribes that they will be provided with the tools necessary to help themselves obtain a better life.

Thank you for inviting us to appear before you on S.1298. We look forward to working further with this Committee and the Congress to bring such much-needed reforms to reality.

Mr. Taylor. Thank you.

I have one or two questions. Mr. Flute, I know that you have just conducted this lengthy study about which you have testified here today on behalf of the association. I don't know whether our committee presently has a copy of that or not or does it accompany your testimony today?

Mr. Flute. The study is going through its last draft. We should be able to get that to this committee within a couple of weeks.

Mr. Taylor. The second question, you indicated that the survey included 15 tribes and, I guess, 3 Alaskan villages in addition. We have heard this testimony about coordination of BIA education programs with IHS at a local level which is gradually seeping upward, but if I heard you correctly, you said that out of the 15 tribes and the 3 villages that you surveyed, only 1 of those reservations had any program reflecting coordination between the two agencies. Did I hear that correctly?

Mr. Flute. Well, I didn't say that exactly, Pete. I think what I said was that there are only two reservations that have adolescent programs. One is the Project Phoenix on Pine Ridge which is a residential treatment center. The other one is on the Cheyenne River Reservation in South Dakota which is a prevention program. I am not familiar with the details as to whether that included any coordination or if that was just Indian Health Service grant money for implementing those programs.

Mr. Taylor. When you were conducting your surveys, did you look at the educational programs offered by BIA on these problems?

Mr. Flute. We did not look at these programs extensively, but based on the interviews we had with people in the communities, my inkling would be that these programs are not the same as the testimony that was given today.

Mr. Taylor. I would like to refer to a document that we have in our possession. It is 62 Bureau of Indian Affairs Manual, paragraph 5.4 referring to types of programs in alcohol and drug abuse. Under the BIA manual, it is mandated that educational programs relating to the nature of alcoholic drinks and narcotics be taught in the schools, including the physiology and hygiene. Upon failure to provide such a program by the proper officials who are in control of any school, that official is subject to removal.

I might say they pre-date your legal authority by 3 years. They cite an Act of 1886. This release is dated September 1979. I don't know whether they are properly implementing this BIA provision or not, but I think we will make this a part of the record at this point.

[The document referred to by Mr. Taylor follows:]

5. Special Programs.

5.1 General Information. Special programs are considered by the Bureau's Office of Indian Education Programs to be those activities engaged in by the schools and supported by the Office of Indian Education Programs which are not covered by general program offerings.

5.2 Policy. It shall be the policy of the Bureau's Office of Indian Education Programs to encourage and support programs of a special nature which have an impact on the growth and development of students served by the Office of Indian Education Programs.

5.3 Procedures. All special programs whether initiated at the local level or on the national level should adhere to criteria formulated cooperatively between the Office of Indian Education Programs and the school.

5.4 Types of Programs.

A. Alcohol and Drug Abuse.

(1) All elementary and secondary schools shall provide alcohol and drug abuse programs required by the Act of May 29, 1886 (24 Stat. 69) as follows:

> "The nature of alcoholic drinks and narcotics and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught **** and in all Indian **** schools in the territories of the United States.
>
> "It shall be the duty of the proper officers in control of any school described in the foregoing section to enforce the provisions of this Act; and any such officer, school director, committee, superintendent, or teacher, who shall refuse or neglect or fail to make proper provisions for the instruction required and in the matter specified by the first section of this Act, for all pupils in each and every school under his jurisdiction, shall be removed from office and the vacancy filled as in other cases."

(2) In view of the destructive effect of alcohol and narcotics, the proper and intelligent carrying out of this section is considered of vital importance.

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Mr. **Flute.** Incidentally, this particular piece of information was provided to us by the Standing Rock Sioux Tribe, and apparently they have been clubbing the BIA over the head with this to no avail.

Mr. **Taylor.** I don't believe I have any further questions. Jane?

Ms. **Wrenn.** No; thank you, gentlemen.

Mr. **Taylor.** I thank you very much for your testimony.

Mr. **Flute.** We thank you for giving us the time.

Mr. **Trope.** Thank you.

Mr. **Taylor.** Our last panel dealing with this bill is Suzan Harjo, executive director of the National Congress of American Indians; Ray Field, executive director of the National Tribal Chairmen's Association; and James Steele of the National Indian School Board Association in Albuquerque.

Ms. Harjo, you are No. 1 on the list, so I will let you coordinate this thing.

STATEMENT OF SUZAN SHOWN HARJO, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS, WASHINGTON, DC

Ms. **Harjo.** Thank you, and greetings to the hardworking staff of the Senate Select Committee on Indian Affairs.

My name is Suzan Shown Harjo. I am Cheyenne and Creek and a citizen of the Cheyenne and Arapaho Tribes of Oklahoma. I am executive director of the National Congress of American Indians, which is the oldest and largest national Indian organization. This testimony is being presented on behalf of NCAI and on behalf of the National Indian Health Board which is located in Denver, CO. We work very closely with the National Indian Health Board on a variety of issues including this particular one.

As you know, the initial drafter of this legislation, Ms. Karen Funk, now serves as NCAI's policy and budget analyst.

We are greatly appreciative of the time and attention that the committee has devoted to this bill and to the general effort to help stem the tide of what has become an epidemic of alcohol and drug abuse in Indian country. We strongly support S. 1298, and we agree with the association's testimony previously presented.

We have a statement that is prepared and would like to submit that for the record, along with the "41st Annual NCAI Convention Position Paper on Alcoholism and Drug Abuse."

We are greatly disturbed about the administration's position. We do not feel that the Indian Health Service and the BIA are doing their utmost to work cooperatively with each other and, importantly, with Indian governments. In the absence of legislation, we do not feel that the BIA and the Indian Health Service will exhibit the necessary resolve to coordinate and share resources to fund the programs that tribes want and to increase the level of knowledge and sensitivity within their agencies that is necessary for an all-out effort to prevent alcohol and drug abuse.

As for BIA and IHS authority to deal with this issue and their position that this bill is not needed, at least not in this form, the BIA and IHS in the past have maintained that they had sufficient authority to, for example, eliminate paternalism, but it took the encouragement of the Congress in enacting the Self-Determination

Act to begin to decrease the excesses of paternalism in the discrete area of contracting. We believe that it will take a similar encouragement by Congress to capture the attention of the agencies in this area, as well.

It is particularly disturbing in this International Year of Youth that the administration is opposing this legislation which is so badly needed among our Indian and Native youth. What does this say to the world community of nations about the administration's commitment to our young people, as well as about its track record in eliminating paternalism in Indian affairs generally?

Without exception, Indian and Native governments, organizations, and people support this legislation, and Congress is demonstrating a commitment to enact this legislation. Yet the administration maintains that it knows what is best for our children and our young people and that it knows better than Congress does what Federal Indian policy should be. All those who constructed the administration position, in my opinion, should be ashamed for their part in it and should not be surprised by our anger.

In regard to the AIDS situation, Indians are not a known at-risk population regarding AIDS, and I am most appreciative of the comments of Senator Murkowski earlier that it would not be his position, one that he could pony up to, if he were in the place of the person from the Department of Health and Human Services in supporting the administration's AIDS research funding raid on Indian Health moneys. As I understand it, the Department of Health and Human Services recommended to OMB that this money for AIDS research funding be totally new money and that that was Secretary Heckler's recommendation to the Office of Management and Budget and that it was OMB, in their wisdom, who targeted the levels and programs within HHS to raid this funding.

If AIDS is indeed the social health crisis that we all have been told and believe it to be, then we should see some new funding for it. That should be the kind of thing that new money should be available for, and it should not be taken from the neediest population in this country which is the Indian people.

We have, as I said, many recommendations for changes in this particular bill, some changes in the House bill that we think we should be made, and what should emerge is some sort of neutral bill that incorporates the best provisions of each. We would like, just as a technical matter, the name of the bill changed to include youth, the word "youth", rather than "juvenile", because of the prerorative kind of connotation of "juvenile" and the word "inhalant" to be included for all the reasons previously cited and cited in our testimony, because the inhalant situation is a most extreme situation. To add to your antifreeze revelation, I will add Freon. I don't think that has been mentioned. I know in the Concho Indian school in Oklahoma, it was the pattern to lock up your glue and Freon whenever you could and that the desk drawers would be broken into in order to get these substances.

We have a stunning problem, and I am most encouraged that the committee has taken the initiative here and that the 15 Senators have put their stamp of approval on it. I wish you well and will continue working with you on it.

Thank you.

[Ms. Harjo's prepared statement, on behalf of both the National Congress of American Indians and the National Indian Health Board, follows. Testimony resumes on p. 165.]

STATEMENT OF SUZAN SHOWN HARJO, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS, ON S. 1298, INDIAN JUVENILE ALCOHOL AND DRUG ABUSE PREVENTION ACT, BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, SEPTEMBER 18, 1985.

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today to testify on behalf of the National Congress of American Indians (NCAI) on S. 1298, the Indian Juvenile Alcohol and Drug Abuse Prevention Act. This statement also is presented on behalf of the National Indian Health Board (NIHB) located in Denver, Colorado. We are heartened that this legislation has been introduced in the Senate and House, and view it as a potentially important part of efforts throughout Indian country to halt the epidemic of alcohol and drug abuse. The prevention and treatment of alcohol and drug abuse is a primary interest of both NCAI and NIHB. Attached to this statement is the position paper on Alcoholism and Drug Abuse adopted at NCAI's 1984 Convention which I would like included in the official hearing record. As you will see, the paper advocated enactment into law of what was then H.R. 6196, the House companion bill sponsored by Representatives Bereuter and Daschle.

We strongly support S. 1298. While increased federal involvement in the prevention of substance abuse is long overdue, this legislation is part of the increased national awareness and resolve to stop alcohol and drug abuse and its attendant destruction. We are pleased to see that in both the Senate and House this legislation has bipartisan cosponsorship, representing a wide ideological and geographical spectrum. Because of the bipartisan nature of the bill and the high level of national commitment to halt substance abuse, we feel the climate is right to enact S. 1298 into law.

We urge this Committee to utilize this opportunity to strengthen the legislation, enact it into law, and to work for a more reasonable allocation of funds for the prevention and treatment of alcohol and drug abuse. NCAI and NIHB have and will continue to advocate higher appropriations for Indian alcohol and drug abuse programs. While the Senate Select Committee on Indian Affairs is an authorizing committee, we hope that your consideration of S. 1298 will in part result in a strong stance for increased appropriations for substance abuse programs. Despite the fact that four of the leading causes of death among Indian people - cirrhosis of the liver, accidents, suicides and homocides - are directly related to alcohol and drug abuse, less than one half of one percent of the Indian Health Service budget is allocated for alcohol and drug abuse programs. And, while the Indian Health Service (IHS) appears to be increasing its focus on prevention ofabuse in this area, the fact remains that even the little money it does have - $26 million in FY'85 - is for treatment of adult alcoholics in the advanced stages of alcoholism. We do not favor shifting money from treatment to prevention, as treatment is desparately needed. We do want more financial and administrative resources committed to prevention of alcohol and drug abuse.

The Research Triangle Institute estimated that the costs of alcohol problems in the United States in 1983 was $116 billion. Nationally, the cost of treating a chemically-dependent person on an inpatient basis ranges between $12,000 and $20,000. The success rate is only about 30%. The United States has been penny wise and pound foolish in its approach to alcohol and drug abuse. The same holds true for the Bureau of Indian Affairs (BIA) and the IHS, which historically have denied responsibility and done little to coordinate existing substance abuse efforts and programs. The IHS and BIA are, in some cases, working cooperatively with each other and with Indian governments. But, in the absence of legislation, we do not feel that the BIA and IHS will exhibit the necessary resolve to coordinate and share resources, to fund programs that tribes want and to increase the level of knowledge and sensitivity within their agencies that is necessary for an all-out effort to prevent alcohol and drug abuse.

The real work in ending the cycle of substance abuse is at the tribal and community level. No federal legislation can or should presume to create a national program to prevent and/or treat alcohol and drug abuse.

The main value of S. 1298 and the House companion legislation is that it can be a stimulus for increased local efforts. The required cooperative agreements, sharing and coordination of resources, the locally-developed education curricula and, very importantly, the training and education offered to a wide variety of Indian people should better utilize available resources and activate a much larger portion of the Indian community into battle against alcohol and drug abuse.

This is the fourth hearing on the Indian Juvenile Alcohol and Drug Abuse Prevention Act. The House Interior Committee has held three field hearings and two more House hearing will soon be held by the Interior and the Education and Labor Committees. We urge this committee to utilize the record which is being built on the House side. Many of the witnesses have put together helpful data about the incidence and effects of alcohol and drug abuse within their tribes. We now have available much tribal-specific information, including the incidence of substance abuse among youth, arrests, child and spouse abuse, hospital admissions and traffic accidents related to the use of alcohol and drugs. This data, combined with the information gained at your hearings, will arm you with what we view as compelling evidence to support the passage of S. 1298 and to secure the necessary appropriations.

In talking with people about this bill and in reading testimony presented to the House Interior Committee, four points are made over and over again:

1) School curricula designed to prevent alcohol and drug abuse must be locally designed or modified in order to be culturally relevant. The bill makes no specific mention that curricula should be culturally relevant. However, our reading of the bill is that it requires BIA and Contract schools to offer curricula in grades K through 12, but that the actual design and choosing of the curricula would be local. Tribes and school districts, of their own volition, would likely design or choose curricula which they feel would fit the cultural needs of their students. Nevertheless, due to the large number of comments about this, we suggest that the bill or report language clarify that curricula is to be locally chosen.

2) All programs, studies and training authorized under this bill should be contract-eligible activities. The training and the renovation of facilities portions of the bill do specify these as contract-eligible activities. We would suggest that language be added to Section 507 of the bill, however, which would make it clear that the study of the need

for juvenile residential alcohol and drug abuse treatment could be contracted by tribes or tribal organizations.

3) More appropriations are needed for juvenile treatment facilities, for counsellors and for locally-based facilities that can serve as an alternative to incarceration. We prefer the Senate language authorizing such sums as may be necessary for the legislation, as compared to the H.R. 1156 language authorizing $5 million for training and a study and a possible future authorization for renovation and construction of facilities.

4) Indian students in public schools need to be included in this legislation. S. 1298 does not contain any provisions regarding curricula in public schools attended by Indian students. Well over half of the Indian youth attend public schools, and we agree with the view that they also must receive culturally relevant education regarding substance abuse. In Montana and Nebraska, for instance, nearly all Indian students attend public schools. The House bill, H.R. 1156, utilizes the Indian Education Act as a means to reach Indian public school students. The bill specifically includes alcohol and drug abuse counselling as an eligibility under Part A, which is money that goes to schools, earmarks 10% of fellowships in Part B for degrees in counselling and includes substance abuse counselling in Part C, which provides funds for urban Indian centers. We support inclusion of the House Indian Education Act language in S. 1298, and further suggest that Johnson O'Malley funds could be made contingent upon a school offering alcohol and drug abuse curricula. Whatever the approach, we feel that some type of language must be included which will ensure Indian students in public schools alcohol and drug education in all grades.

NCAI and NIHB would also support amendments to the bill which would address the need of pre-school age children to develop skills and attutides that will increase their chances for futures free of alcohol and drug abuse. Two federally-funded programs which could provide, and in some instances already do provide, these services are the Johnson O'Malley Program and Head Start. J'OM funds have been used at Pine Ridge and Salt River, for instance, for pre-school programs. Possibly Head Start could involve families with children enrolled in that program by offering parenting classes.

Whatever's one age, alcohol and drug abuse prevention and treatment cannot generally be dealt with successfully outside of a family and community context. We support the provision in Title II which encourages family participation in educational instruction and the provision in Title III which includes family relations in alcohol and drug abuse training.

Counsellors must also operate in a family context. However, lack of trained chemical dependency counsellors and a high turnover rate among counsellors present major problems. Often there is only one counsellor for hundreds of students and their families. And, in many cases, counsellors do not have adequate training. John Williams, a member of the Oglala Sioux Tribe and Director of the University of South Dakota's Alcohol and Drug Abuse Counselling Division, pointed out in his testimony on H.R. 1156 that there is no uniform alcohol and drug abuse training program adopted nationwide. There is no training model that standardizes information, has career ladder capabilities, increases counsellor competency levels and teaches research skills. We do not accept this training for our doctors and nurses and teachers, and we should not accept it in counsellors. It may be outside the purview of this legislation to address the subject of chemical dependency counsellor training. However, a 10% set-aside of Part C of the Indian Education Act would ensure about 10 or 11 Indian students being trained each year as counsellors. Perhaps a better or additional approach would be to authorize an endowment or scholarship fund for Indian students in the field of chemical dependency counselling.

S. 1298 does not include the provision contained in H.R. 1156 which would require that some BIA and/or contract schools remain open in the summer to provide recreational and educational activities and counselling services. Lack of summer activities is a serious proben for reservation youth. While it would require some additional money to keep selected schools open, it would be well worth the investment.

We applaud the emphasis this bill places on alternatives ~~for~~ to juvenile incarceration for alcohol and drug related charges. This is probably one of the most difficult areas in which to legislate. Incarceration of juveniles, sometimes in adult jails without proper isolation from adults, is a national problem. Tribes generally have even fewer resources to deal with this problem than do states. Last year 300,000 youth in the U.S. were incarcerated, with only 10% of them being arrested for serious crimes. We are concerned however, with the language in the law enforcement section of the bill which requires the BIA to develop guidelines for incarceration of Indian juveniles when an emergency shelter or treatment facility is not appropriate. This would likely occur in cases where the youth is violent. We feel that the BIA promulgation of guidelines would intrude on tribal laws or codes. The House bill contains language which says that no BIA guidelines or regulations may supercede tribal laws. We feel that this safeguard must be included in the Senate bill.

With regard to the BIA's licensing of homes to serve as emergency shelters in lieu of incarceration, both the House and Senate bills provide that each emergency shelter must be approved by a tribal council. However, we feel that this would also be an intrusion into tribal jurisdiction, and that licensing should be left to the tribes. In addition, circumstances differ too much from tribe to tribe to make uniform licensing standards workable.

In Section 503 of the bill the study to identify facilities that can be utilized as juvenile alcohol and drug abuse treatment centers should focus on options that would allow Indian youth to remain near their homes for treatment. The bill language does not preclude this focus, but language to ensure that local options are considered would be helpful.

NCAI and NIHB strongly support the requirement that the President include in his budget request funds to establish a program that provides comprehensive alcohol and drug abuse treatment services, including detoxification, counselling and follow-up care for juveniles. The IHS should have a total commitment and comprehensive services to deal with the number one health and social problem in Indian country. It is tragic that they do not, or have they ever had, this attitude.

We would recommend that section 501(a) of the bill be amended to include comprehensive alcohol and drug abuse services for juveniles and adults.

In addition, we suggest that this section of the bill be amended to include consultation with tribes because what is considered comprehensive substance abuse services will vary from tribe to tribe. It is possible that this type of tribal specific planning would come about as a result of the memorandum of agreements between tribes, the IHS and the BIA provided for in Title I of the bill.

We have, in addition, two suggested technical changes in the bill:
1) in the title of the bill substitute the word "youth" for "juvenile", as the latter carries the popular connotation of delinquency and
2) in the title add the word "inhalant", so the title would read "Indian Youth Alcohol, Drug and Inhalant Abuse Prevention Act". Alternatively report language could make it clear that inhalant abuse is covered under the bill. Inhalants are drugs, and our understanding of the legislation is that they are included in its provisions. However, due to the increasing use of gasoline, correcting fluid, lysol and other inhalants, especially among grade school children, we feel it is important to emphasize their inclusion in the legislation.

Thank you very much for the opportunity to comment on S. 1298, the Indian Juvenile Alcohol and Drug Abuse Prevention Act. We are very encouraged by the bill's introduction and by the priority assigned it by the Senate Select Committee on Indian Affairs and the House Interior Committee. There is considerable interest in this legislation by Indian people and tribal governments. The National Congress of American Indians and the National Indian Health Board look forward to continued communication with the Members and staff of the Select Committee on Indian Affairs as we move closer to a markup of S. 1298.

NATIONAL CONGRESS OF AMERICAN INDIANS
41ST ANNUAL CONVENTION

POSITION PAPER
ON
ALCOHOLISM AND DRUG ABUSE

Spokane, Washington
September 13, 1984

PROBLEM

A. The Indian Health Service Office of Alcohol Programs was established in March, 1978. In P.L. 94-437 Congress identified the purpose of this office as the treatment and control of alcoholism amongst American Indians. To carry out this purpose the Office of Alcohol Program adopted nine major objectives recognizing that some of these objectives had not been achieved and that only limited progress had been made on others. Dr. Rhoades, Director of Indian Health Service and Dr. Graham, Director of Health Resources and Services Administration agreed that a study should be made of Indian Health Service Alcoholism Programs. This study was carried out during the period of October, 1983 to June, 1984, by an independent research and development company under contract with the Health Resources and Services Administration. The primary purpose of this study was to identify and assess Indian Health Service model alcoholism programs. The secondary purpose was to develop a set of recommendations for alcoholism programs funded by Indian Health Service. The study identified and surveyed 19 highly successful Indian alcoholism programs. The title of the study report is Identification and Assessment of Model Indian Health Service Alcoholism Projects.

Each organization surveyed reported a large number of problems and unmet needs. These include inadequate or inappropriate policies, the lack of a well-defined service population, inadequate or obsolete program facilities, lack of adequately trained staff, inadequate number of staff, limited or inadequate funding and inadequate assistance and guidance from the Indian Health Service at the Area and Central Office levels.

The study report also includes a detailed description of six program models (prevention/outreach, detoxification, primary residential treatment, halfway house, outpatient, and custodial care).

CONCLUSION

A. This study identified and assessed a small number of successful programs. Because it may be assumed that the less successful programs would have more serious problems and a greater number of unmet needs we may reasonably conclude that the majority of Indian Health Service funded programs are not providing an adequate level of services to the clients and communities they serve. The magnitude and nature of these problems indicates a definite need for new congressional legislation mandating the development of adequate and effective alcoholism services for Indian people.

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RECOMMENDATIONS

A. Identification and assessment of model Indian Health Service Alcoholism Projects (Contract No. 240-083-0100 for the Health Resources and Services Administration, Department of Health and Human Services) with modifications from the NCAI Alcoholism and Drug Abuse Committee. Based on study findings presented in this report it is hereby recommended that:

Recommendation 1

> *THAT THE NCAI SEEK A COMMITTMENT FROM THE PRESIDENT OF THE UNITED STATES AND HIS ADMINISTRATION TO REQUEST A MININUM INCREASE OF $10 MILLION DOLLARS IN CONGRESSIONAL APPROPRIATIONS FOR IHS COMMUNITY AND URBAN ALCOHOL PROGRAMS FOR FISCAL YEAR 1986. IT IS ALSO REQUESTED THAT THE PRESIDENT PROVIDE FOR THE DEVELOPMENT OF A LONG RANGE (TEN TO FIFTEEN YEARS) PLAN WHICH WOULD INVOLVE A COORDINATED EFFORT OF THE EXECUTIVE BRANCH AND THE OFFICE OF MANAGEMENT AND BUDGET DURING APPROPRIATION HEARINGS. THE NCAI IS DIRECTED TO REQUEST FROM THE U.S. CONGRESS, TO DEMONSTRATE ITS COMMITTMENT TO THE UPGRADING OF THE HEALTH OF THE INDIAN PEOPLE AND ALLEVIATING THE ADVERSE EFFECTS OF ALCOHOL AND DRUG ABUSE, PASSAGE OF A CONGRESSIONAL BILL THAT WOULD PROVIDE THE NEEDED AUTHORITIES AND FUNDS TO ELEVATE THE LONG RANGE GOALS OF THE INDIAN ALCOHOLISM AND DRUG PROGRAMS.*

Administrators and staff members of the study programs identified the need for additional IHS funds as the most critical need for strengthening their programs. Increased IHS funds are needed for 1) employing additional program staff, 2) increasing current staff salaries, 3) providing additional funds for training and education of counselors and administrators, 4) establishing alcohol programs in communities which have a critical need for additional services, 5) recognizing and compensating those programs which on the basis of standardized evaluation criteria demonstrate their compliance with appropriate standards for effectiveness and efficiency, and 6) upgrading program facilities by remodeling existing structures of constructing new ones.

The passage of a Indian Alcoholism Improvement Act would provide for and direct the Indian Health Service to carry out the following study findings as suggested in Recommendations 2 through 9:

Recommendation 2

> THE IHS DEVELOP A THREE-YEAR PLAN FOR TESTING AND IMPLEMENTING THE SIX ALCOHOL PROGRAM MODELS (PREVENTION/OUTREACH, DETOXIFICATION, PRIMARY RESIDENTIAL TREATMENT, HALFWAY HOUSE, OUTPATIENT, AND CUSTODIAL CARE) DESCRIBED IN THIS REPORT.

The plan to be developed under this recommendation should include but not be limited to the following provisions:

> *1) Appointment of an ad hoc technical review groups, composed of persons who have extensive pragmatic and theoretical knowledge of alcohol program development and evaluation, to serve as a planning advisory group on the development of the three year plan;*

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2) Development and implementation of a pilot study to field test the models with a selected sample of IHS community alcohol programs;

3) Development of an implementation plan for converting IHS alcohol programs to a new system based on the program models in accordance with the findings of the pilot study;

4) Provision of relevant training for the IHS Area Alcohol Coordinators on the important elements of the new system;

5) At the end of the three-year period, development of a status report by the technical review group for submission to the IHS Director documenting the feasibility of using the new system for IHS community alcohol programs.

Recommendation 3

THAT THE INDIAN HEALTH SERVICE SOLICIT INPUT FROM THE IHS ALCOHOLISM PROGRAMS TO DEVELOP A NEW CLIENT MANAGEMENT INFORMATION SYSTEM WHICH ESTABLISHES a) FINANCIAL ACCOUNTABILITY; b) CONTRACT COMPLIANCE; c) PATIENT OUTCOME; AND d) QUALITY OF SERVICES. THIS SYSTEM SHOULD BE LIMITED TO EITHER ONE OR TWO PAGES TO AVOID LOSS OF COUNSELOR TIME AND BURDENSOME PAPERWORK WHICH AFFECTS QUALITY DELIVERY OF SERVICE. ASSESSMENT, DISCHARGE AND FOLLOW-UP MEASUREMENT OF SERVICES WOULD NEED TO BE INCLUDED IN THIS COMPILATION OF CLIENT DATA.

Survey findings indicate that alcohol treatment programs have problems related to client assessment at three different states in the service delivery process. These are assessment of the client's level of functioning at intake, discharge and post-treatment follow-up.

Two programs in this study reported successful discharge rates of 30 and 38 percent, and two other programs reported successful discharge rates of 100 percent for fiscal year 1983. The comprehensive programs did not report any discharge rates by specific program components, possibly because of their practice of transferring clients from one program to another without discharging them. Excessively low or high discharge rates may indicate that clients are not properly diagnosed nor placed in appropriate program components at the time of intake. Inappropriate diagnosis and placement of clients has important implications for treatment outcome and may directly affect the rate of successful discharges.

During fiscal year 1983, only eight percent of 166 IHS alcohol programs reported client follow-up measures and, in this study only two of the 12 programs reported client follow-up data. These low rates of client follow-up indicate a need for the development of new client follow-up policies and procedures.

The IHS needs to implement a reliable and objective system for determing the client outcome effectiveness of IHS-funded programs. The implementation of this recommendation will provide a foundation for the development of such a system.

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Recommendation 4

THAT IHS DEVELOP AN EDUCATION AND TRAINING PROGRAM TO MEET THE CAREER DEVELOPMENT NEEDS OF COUNSELORS AND ADMINSTRATORS. THE PROGRAM SHOULD INCLUDE COMPETENCY BASED CURRICULA AND PROVIDE APPROPRIATE ACADEMIC CREDIT FOR STUDENTS COMPLETING COURSE REQUIREMENTS.

Information from the study shows that 20 of 58 counselors are certified alcohol counselors. In four of the 12 programs none of the 19 counselors are certified. Of the 58 counselors, five did not complete high school, 28 have high school diplomas, six have associates of arts degrees, eight have baccalaureate or master's degrees, and 10 additional counselors have completed some college courses. This information was not available for the one remaining counselor.

During the site visits, program administrators expressed an interest and need for further education and training in the areas of program management and supervision, resource development, program evaluation, and other administrative topics.

Members of the expert panel recommended that the IHS give consideration to two strategies for implementing this recommendation: 1) Explore the feasibility of utilizing the IHS Continuing Education Program which is used to train medical and clinical personnel, and 2) negotiate with administrators of local community colleges and Indian-controlled colleges for the inclusion of appropriate alcohol studies courses in their curricula.

Recommendation 5

THE IHS PREPARE ANNUAL IHS ALCOHOL PROGRAM CONTRACTS WHICH SPECIFY BUDGET ITEMS, STAFFING REQUIREMENTS, SCOPE OF WORK, AND OTHER MAJOR CONTRACT CONDITIONS FOR EACH SPECIFIC PROGRAM COMPONENT.

The two comprehensive programs included in this study were not able to report budget information and program data separately for each of their IHS-funded components. The information they reported was based on estimates, rather than actual data.

The intent of this recommendation is to produce accurate and valid program information needed by the IHS Area Alcohol Coordinators to monitor contract compliance and determine program accountability measures.

Recommendation 6

THE IHS DEVELOP A POLICY THAT DEFINES THE CONDITIONS UNDER WHICH RECIPIENTS OF SERVICES FROM COMMUNITY ALCOHOL PROGRAMS ARE CLASSIFIED AS PROGRAM CLIENT, REGISTRANT OR ENROLLEE ACCORDING TO THE TYPE OR PROGRAM PROVIDING THE SERVICE.

Study findings indicate that programs use different methods for determind client counts. For some programs the client counts appear to be inflated due to the practice of counting members of autonomous

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community support groups who are not receiving direct services from the programs. Also, the comprehensive program may be under-counting clients due to the practice of transferring them from one program compoenent to another without discharge.

The intent of this recommendation is to provide the IHS and community alcohol programs with a more precise method for determining client counts. The use of a uniform approach to determining the conditions under which a person may be counted as a client, registrant or enrollee should eliminate apparent inequities in the system.

Recommendation 7

THE IHS DEVELOP A PROGRAM OPERATIONS IMPROVEMENT PLAN FOR EACH IHS AREA TO IDENTIFY ACTIONS NEEDED TO IMPROVE OPERATIONS OF COMMUNITY ALCOHOL PROGRAMS.

The plan to be developed under this recommendation should include but not be limited to the following actions:

1) Appointment of an Area Alcohol Planning Committee, composed of persons who have knowledge or program planning, development and evaluation (including persons working in the fields of human services, social work, health care, law and order, education, etc.);

2) Conduct an IHS Area needs assessment to determine where alcohol programs services should be located for a more efficient service-delivery system, with special emphasis on the needs of underserved groups, such as women and youth;

3) Develop an Area alcohol training plan for IHS health care providers (including hospital and clinic staff);

4) Provide guidance and assistance to local community alcohol programs to help them identify additional financial resources;

5) Direct the Office of Environmental Health to provide training and technical assistance for the purpose of helping local programs bring their facilities into compliance with applicable codes and regulations;

6) Develop policies for the establishment of local program advisory committees to provide technical guidance and advocate for additional program resources.

Advisory committees at both the Area and local program levels are needed to provide increased community support and a braoder base of professional leadership for strengthening the IHS service delivery system and increasing the effectiveness of local programs. In the human services field advisory committees function as advocacy groups for broadening the funding base, increasing program resources, providing professional direction for improving program effectiveness, and leadership for bringing about planned change. These functions are directly relevant to the problems and needs identified in this report. The creation and use of advisory committees can provide additional leadership and support for resolving these problems and needs.

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The problems and needs described in this report can be used at the Area level as guidelines for the implementation of an Area-wide needs assessment. Such an assessment can help each IHS Area determine what its priorities should be with respect to the task of strenghthening the IHS-funded community alcohol programs. Members of the expert panel suggested that much of the data required for a needs assessment may be available from the IHS computer system. Each IHS Area will need to determine what procedures will be needed to collect addictional information.

Program directors and members of the expert panel expressed interest in the feasibility and possible benefits to be derived from the use of a "continuum of care" approach to planning for strategic placement or programs in the region served by each IHS Area Office. Detoxification, primary residential treatment, halfway houses, and outpatient programs are the major components of the continuum of care process. A needs assessment will help each IHS Area determine the feasbility of this strategy for making essential services more accessible to the service population.

More training and educational programs are needed for both IHS medical and health care staff and tribal health contractors on the disease concept of alcoholism. Program directors indicated a willingness to provide alcohol training events for local IHS hospital and clinic staff but have not been utilized in this manner.

Alcohol program staff repeatedly testified to the need for obtaining more training designed to increase the level of staff knowledge and skills. Site visit consultants identified training needs primarily in administrative and treatment aspects of program operations, including for example, additional training related to the problems and needs of women and youth. In their efforts to provide additional training opportunities for staff training and education, programs have been hampered by inadequate funds and inaccessibility to education institutions.

Each program director interviewed in this study expressed need for increased funding. Program staff also reported problems and needs that were not addressed due to the shortage of funds. Study findings show that some of the programs operate on a very narrow funding base. Table 11, Page 96, shows that 71.4 percent of the total receipts reported by study programs were derived from federal government. More technical assistance is needed by local programs to help them develop additional resources and increase their level of funding from sources other than the federal government.

Study findings indicate that some programs are not licensed or certified for compliance with fire, safety, sanatation and health codes or regulations. The findings also show that most program directors reported one or more inadequacies in their facilities. The Office of Environmental Health can perform an important function for IHS-funded alcohol programs by providing technical assistance to help them improve their facilities.

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Recommendation 8

THE IHS DEVELOP AND IMPLEMENT A PLAN FOR REVIEWING THE STATE-OF-THE-ARTS KNOWLEDGE ABOUT ALCOHOL-RELATED PROBLEMS AFFECTING AMERICAN INDIANS.

The plan should provide for the use of specially selected technical review groups whose members can serve as resource persons for the review of literature on new research findings and innovative treatment and prevention approaches appropriate to the goals of IHS community alcohol programs. Examples of topics to be included in the plan are: Alcohol-related morbidity and mortality, fetal alcohol syndrome, incidence and prevalence of drug use among Indian adolescents, evaluative research strategies appropriate for use at the local program level, delineation of new research needs and establishment of research priority areas.

Members of the expert panel who expressed interest in this recommendation recognize that it may be outside the focus of the present study but believe strongly that it represents an important need for the IHS and the field of Indian alcoholism.

Recommendation 9

THE IHS DIRECTOR REQUEST THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) TO CONVENE A PERMANENT STANDING COMMITTEE COMPOSED OF REPRESENTATIVES FROM THE INDIAN HEALTH SERVICE (IHS); ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION (ADAMHA); ADMINISTRATION FOR NATIVE AMERICANS (ANA), TO IDENTIFY CURRENT ALCOHOL PROGRAM ACTIVITIES AND DEVELOP COOPERATIVE STRATEGIES FOR THE DELIVERY OF SERVICES TO AMERICAN INDIANS.

The intent of this recommendation is to provide a department-wide mechanism for sharing limited resources and strengthening cooperative program networking among the various units of the DHHS which address alcohol and drug abuse, and other health care problems of Indian people.

Members of the expert panel and the project staff believe that this committee can provide the IHS with additional programming resources for the Office of Alcohol Programs. Although this need was not identified in the study findings, the panel members believe such a departmental committee could share knowledge and develop new strategies for strengthening services for Indian people.

Presently the IHS Director has created a similar effort in establishing an Alcoholism Program Review Steering Committee which will include similar resources as cited above. This committee is planning on soliciting input from the 179 IHS Alcoholism Programs to create a creditable management tool which truly reflects program needs. The collected information will be compiled and presented for inclusion into a summary which will be utilized in futuristic planning efforts. It is recognized that the IHS Director is concentrating efforts to improve alcoholism programming issues, and is appreciated for these efforts. Recommendations of the NCAI Alcoholism Committee suggest maintenance of a permanent committee to continue addressing alcoholism program conc

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PROBLEM:

B. Alcohol and drug abuse continues to be the leading cause of many of the major health problems suffered both on and off-reservations and is also attributable to the high death rate amongst American Indian and Alaskan Native population from illnesses, accidents and suicides. Some of the consequences of alcohol and drug abuse are child and spouse abuse, violent crimes and orphaned children. Consequences such as these are devastating to all of society.

Almost half our nation's American Indian and Alaskan Native population are under the age of 18 years. They are being exposed daily to the devastating ramifications of alcohol and drug abuse without adequate education/prevention experiences that would teach/allow the youth to choose not to drink or use mood altering drugs. This age group of American Indian and Alaskan Native youth are growing to adulthood with the attitude prevelent in society that it is alright to drink/use, thereby perpetuating the problem from generation to generatio

The human and financial needs are incalculable, and, although the Indian Health Care Improvement Act authorizes money for treatment little of these financial resources go to efforts designed to prevent alcohol and drug abuse, and, there has been little or no focus on our youth. While it is difficult to calculate the costs of prevention and education, common sense would dictate that the cost of doing something about the problem will be much less expensive than costs of alcohol related diseases, child and spouse abuse, incarcerations, court costs, public assistance and unemployment due to alcohol and drug addiction.

CONCLUSION:

B. Currently approximately 1% of the authorized funds within the Indian Health Service budget go to efforts designed to prevent alcohol and drug abuse This amount is grossly inadequate in that our Indian youth ages 18 and under constitute 40% of the total Indian population. Educational facilities which serve Indian youth, BIA, Contract, Public and Private schools are rendered inactive in the delivery of prevention, intervention and treatment of alcohol and drug abuse due to the lack of available funds to these organizations for these expressed purposes.

Professional personnel who come in contact with Indian youth are grossly undertrained in the area of alcohol and drug or substance (inhalant) use, prevention, intervention and treatment.

The Indian Health Care Improvement Act authorizes the United States Secretary of Health and Human Services to make contracts to Indian Tribes for establishement and operation of Indian Alcoholism Treatment Programs. Such Indian Health Service supported treatment programs all but ignore the 40% of the Indian youth population as is evident by the existence of only two treatment programs for Indian juveniles. Indian Health Service in practice has not recognized the need for prevention, intervention, and treatment of alcoholism and drug abuse. Indian Health Services currently authorizes only 1% of its monies to be spent on alcohol and drug abuse for our Indian youth, as stated earlier.

The above situations are perpetuated by the lack of acceptance of responsibility for the problems by State and Federal funding sources and the fact that Congress continually ignores the problem.

The maximizing of prevention, intervention, and treatment programs and educational experiences targeted toward Indian youth shall have the long-term productive and positive social effect of further aiding the Indian population toward self-determination, which is the stated policy of the current Administration. To this end, funds should be solicited from other sources, such as private organizations and State legislatures or agencies, and communicative and colloborative efforts should be made in pursuit of this goal.

IT IS RECOMMENDED THAT THE NATIONAL CONGRESS OF AMERICAN INDIANS take initiative and priority in supporting H. R. 6169, the Juvenile Indian Alcohol and Drug Abuse Act, and support the creation and development of alcohol and drug abuse programs in the following manner:

1) By providing information, encouragement, and support to Tribal groups and other interested and concerned organizations that would allow their input and support of H. R. 6169, the Juvenile Indian Alcohol and Drug Abuse Act, introduced September 7, 1984, by Congressmen Daschle and Bereuter;

2) Assist in coordinating and activating efforts with other national Indian organizations and Indian youth groups so as to assure a unified Indian voice to State and Federal government officials on the issue of alcohol and drug abuse prevention, intervention, and treatment programs for Indian youth;

3) Support and encourage Tribal efforts which target alcohol and drug abuse prevention, intervention, and treatment of Indian youth and encourage Tribes and Tribal groups to seek State and Federal legislative resolutions and funding for these programs;

4) Encourage and activate the efforts of Indian youth support services, organizations, tribal programs, and all educational facilities which serve Indian youth in organizing and implementing alcohol and drug prevention, education, and intervention programs for Indian youth;

5) By recognizing the endorsing the National Indian Social Workers Association Resolution 84-4, supporting passage of H. R. 6169;

6) Support the Tribal requests of Indian Health Service to substantially increase the 1% authorization of funds to a level sufficient to meeting the needs and establishment of Indian youth alcohol and drug abuse programs.

This Position Paper on Alcohol and Drug Abuse is respectfully submitted by the Alcohol and Drug Abuse Committee of the National Congress of American on September 13, 1984:

Caleb Shields

Caleb Shields, Co-Chairman
Tribal Councilman
Assiniboine and Sioux Tribes
of Fort Peck

Harry R. Gilmore

Harry R. Gilmore, Co-Chairman
NCAI Area Vice President
Muskogee Area

The 41st Annual Convention of the National Congress of American Indians held at Spokane, Washington during September 10-14, 1984, does hereby approve the above recommendations submitted and presented by the National Congress of American Indians Alcoholism and Drug Abuse Committee.

Mr. **Taylor**. Thank you, Ms. Harjo.
Mr. Field.

STATEMENT OF RAYMOND C. FIELD, EXECUTIVE DIRECTOR, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION, WASHINGTON, DC

Mr. **Field**. Good morning, Mr. Chairman. My name is Raymond C. Field. I am the executive director of the National Tribal Chairmen's Association. I am speaking on behalf of that national membership which is comprised of 183 federally recognized tribes.

Mr. **Taylor**. Mr. Field, I would like to welcome you to the committee today. I don't know if you have testified on the Hill before. I know that you are new in your job, and we certainly look forward to working with you in the future, and I am glad to see you here today.

Mr. **Field**. Thank you.

Neither the Bureau of Indian Affairs nor the Indian Health Service, in our canvas of our membership tribes, has a specifically funded project which addresses juvenile alcohol and drug abuse. I know that the administration in the form of the Bureau of Indian Affairs has testified opposite to that effect. I would recommend that this committee either request or require the Bureau of Indian Affairs to bring forth or produce evidence supporting that assertion.

What we have found is that, as was provided by earlier tribal testimony and the chairman's, a program or programs may consist of simply posting a poster board on a bulletin board in a school or a half-hour or hour lecture per semester. Presently, the current Bureau of Indian Affairs institutional programs are inaugurated by tribal initiatives, that is, requiring the tribes to make an initiative first.

This requirement is particularly difficult for tribes because of the poor economic situation of Indian tribes. So, it becomes a catch-22 program.

Our Indian people are deeply concerned about juvenile alcohol and drug abuse and the potential for greater harm to our Indian youth. Therefore, the National Tribal Chairmen's Association urges Congress to include effective medical and educational components, because we view prevention as important as intervention.

Therefore, in section 201, we suggest that the program should include a comprehensive program of medical facts, for example, the physiological process of addiction including mental and emotional aspects, cross-addiction, self-identification, treatment, and support systems networking. Under the American Indian Education Act, we recommend an educational title which includes a provision for a new fellowship category be added for Indian persons who undertake a health career education which is related to alcohol and drug abuse, such as clinical psychology.

Within section 201, the National Tribal Chairmen's Association urges a provision for alternative youth activities. I think you all have heard the successes, though not numerically great, of outside activities being used to not necessarily divert but to provide a greater interest to Indian youth.

An example that was given earlier in testimony is the Turtle Mountain Chippewa band whose tribal chairman is also the president of the National Tribal Chairmen's Association, Mr. Richard LaFromboise. I know that he is deeply interested in Indian youth, and he is also interested in channeling those youthful efforts, activities, interests, into something very constructive such as learning their own tribal customs, learning their own tribal dances, learning their own tribal language and learning their own tribal songs.

We seek the provision of constructive and productive healthful activities for our Indian youth. It would behoove, I think, all Indian tribes to emphasize their own cultural traditions. Obviously, the use of inhalants, drug abuse, alcohol is counterproductive and is opposite to the traditions that we have been taught as young men and women.

Within section 201, we suggest a newsletter to include articles on alcohol and drug research. We recommend that Ms. Christine Brown of the central office of the Bureau of Indian Affairs be an integral part of the application of this bill. Ms. Brown organized and directed the Bureau of Indian Affairs' initiative on alcohol and drug abuse from 1981 to 1983 and, very importantly, she was the author of a very well received among the Indian community 75-page booklet on alcohol and drug abuse.

Mr. TAYLOR. Is she with the Bureau of Indian Affairs at this time?

Mr. FIELD. Yes, sir, she is.

Because of her professional and personal interest, we urge her appointment as director of the proposed newsletter on the Juvenile Alcohol and Drug Abuse Program and whatever other positive impact she can certainly apply in other aspects of the program.

Under title III, section 301, Family and Social Services, health fairs should be made available which provide not only training but pertinent media campaign which disseminates information of the programs ongoing throughout Indian country once this has been passed and inaugurated.

We recommend under the Law Enforcement Component, section 401, that the program provide comprehensive in-service training developed and implemented two times a year for all law enforcement personnel. I think that the fact that Indian youth are often incarcerated with hardened criminals or adult criminals in Indian jails should give you an idea of the misdirection and the miseducation of many of the Indian law enforcement personnel functioning on reservations. It must include a comprehensive curriculum of medical facts, that is, physiological process of addiction including mental and emotional aspects, counseling techniques, and treatment and support system information.

On behalf of the National Tribal Chairmen's Association I thank you for the opportunity to appear before you and testify on behalf of our tribes.

[The prepared statement of the National Tribal Chairmen's Association, submitted by Mr. Field, follows:]

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

TESTIMONY OF THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS ON S. 1298, A BILL TO COORDINATE AND EXPAND SERVICES FOR THE PREVENTION, IDENTIFICATION AND TREATMENT OF ALCOHOL AND DRUG ABUSE AMONG INDIAN YOUTH, AND FOR OTHER PURPOSES.

SEPTEMBER 18, 1985

Good morning, Mr. Chairman. My name is Raymond C. Field, the Executive Director of the National Tribal Chairmen's Association. Today I am speaking on behalf of the National Tribal Chairmen's Association's membership which is composed of 183 federally recognized Indian tribes.

Neither the Bureau of Indian Affairs nor our 183 member tribes have a specifically funded project which addresses juvenile alcohol and drug abuse. Rather, current Bureau of Indian Affairs institutional programs are inaugrated as tribal initiatives.

Our Indian people are deeply concerned about juvenile alcohol and drug abuse and the potential for greater harm to our Indian youth if the problem continues unchecked. Therefore the National Tribal Chairmen's Association urges the Congress to include effective medical and educational components because we view prevention as important as intervention.

Therefore in § 201, we suggest that the program should include a comprehensive base of medical facts: physiological process of addiction including mental and emotional aspects; cross-addiction, self-identification, treatment and support system networking.

Under the Indian Education Act, we recommend a educational title which includes a provision for a new fellowship category be added for Indian persons who undertake a health career education which related to alcohol and drug abuse, e.g., clinical psychology. Within § 201, the National Tribal Chairmen's Association urges a provision for alternative youth activities. Besides specifically designed agency and tribal program, we seek the provision of constructive, productive and healthful activities for our Indian youth. For example, Bureau and tribal educators could be employed as resource people for youth activities, e.g. camping, tribal language, singing and dancing.

Within § 202, we suggest that the newsletter include updated articles on alcohol and drug research. We recommend that Ms. Christine Brown, Central Office of the Bureau of Indian Affairs be an integral part in the application of this Bill. Ms. Brown organized and directed the Bureau of Indian Affairs initiative on alcohol and drug abuse from 1981-83 and is the author of a well received seventy-five page booklet on alcohol and drug abuse. Because of her professional and personal interest, we urge her appointment as director of the proposed newsletter on Juvenile Alcohol and Drug Abuse.

Under Title III, § 301, Family and Social Services, health fairs should be made available which provides not only training but a pertinent media campaign, which disseminates information of the program throughout Indian country.

We recommend under Law Enforcement Component § 401, provide comprehensive in-service training developed and implemented two times a year for all law enforcement personnel. It must include a comprehensive curriculum of medical facts: physicological process of addiction and including mental and emotional aspects; counseling techniques, and treatment and support system information.

On behalf of the National Tribal Chairmen's Association, I thank you for the opportunity to testify on this important piece of legislation.

Mr. TAYLOR. Thank you, Mr. Field.

Mr. Steele.

STATEMENT OF JAMES STEELE, NATIONAL INDIAN SCHOOL BOARD ASSOCIATION, ALBUQUERQUE, NM

Mr. STEELE. Thank you very much for the opportunity to be here. The National Indian School Board Association appointed me as a special presenter last week in Denver. I appreciate the confidence they have shown in me to make this presentation. I will just read the statement, and then I have a couple of comments, and I will make it as short and brief as possible.

The National Indian School Board Association is pleased to appear before the committee to express its strong support for S. 1298. There is no more serious problem in the Indian communities of this Nation than alcohol and drug abuse.

Generally, our comments with respect to S. 1298 concern the need to ensure that the measures intended by the outline of this legislation will, in fact, be implemented after the Congress acts. The bill embodies a number of constructive approaches to juvenile drug and alcohol problems. We would like to be sure that the Departments of the Interior and Health and Human Services, which are charged with most of these measures, will in fact carry them out.

Accordingly, we believe the bill should be modified to specify which administrative officer and which administrative agency is required to take each action contemplated in the bill. In addition, we believe that a provision should be added vesting in any U.S. district court in this Nation jurisdiction to hear an action brought to enforce any measure in this bill.

Effective implementation of measures in this bill will cost money. We believe it is incumbent upon every member of the committee who also sits on the Appropriations Committee, Mr. Abdnor, Mr. DeConcini, Mr. Burdick, and Mr. Andrews, and any other cosponsors we may have overlooked unintentionally to make a personal commitment to ensure that necessary provisions are made in the appropriations act to implement this bill.

The final accountability measure which we suggest is a followup reporting requirement. We suggest that the bill include clear direction to the Secretary of the Interior and Secretary of Health and Human Services, notwithstanding any other Federal procurement law to the contrary, to enter into a contract with the National School Board Association and the National Indian Health Board in the amount of $50,000 6 months after enactment of the Indian Juvenile Alcohol and Drug Abuse Prevention Act.

The contract should require that each named organization prepare and present a clear and concise report describing measures taken to implement the act by the Department of the Interior and the Department of Health and Human Services. Said report should include recommendations which have identified both the positive and negative procedures utilized for implementation of the act and how to expand on and/or eliminate them as needed.

Our next concern relates to a number of effective local programs which now exist in the area of alcohol and drug abuse. A specific provision should be added to each title of the statute to ensure that the new programs mandated by this bill supplement and do not jeopardize existing programs. In this connection, it would be helpful if your committee's report could identify a number of the effective programs and resources now in place.

The bill as drafted does not appear to give significant recognition to the local decisionmaking authorities now in place throughout Indian country. For example, at Bureau of Indian Affairs schools, Congress has already vested in local school boards the authority over local policies, procedures, and financial plans. S. 1298 should recognize this decisionmaking authority and ensure that the local decisionmakers are allowed adequate participate on issues regarding the act and also reinforce their already established local authority as outlined.

Similarly, within both the Bureau of Indian Affairs and the Indian Health Service, substantial authority has been delegated from Washington to line officers out in the field. The bill must place specific responsibility on these line officers with language that is undebatable and not open to individual interpretation.

Although we have not in this presentation attempted to compare S. 1298 with H.R. 1156, we would not the training requirements set forth in the House bill are more comprehensive than those contained in S. 1298. We prefer this comprehensive approach, especially when dealing with the very complex issue of enforcement of the juvenile laws and the facility requirement for incarceration, sight and sound separation from adults, separate facilities requirement, and the fact that in order to effectively deal with these issues and give strength to the act, funding for construction should be considered.

In conclusion, we congratulate the members of the committee for introducing S. 1298. We hope the bill will be modified in accordance with our comments and other people's comments and promptly enacted.

Thank you very much.

Mr. TAYLOR. Thank you, Mr. Steele.

[Mr. Steele's prepared statement, on behalf of the National Indian School Board Association, follows:]

Testimony of the National Indian School Board Association on S. 1298 before the Select Committee on Indian Affairs, September 18, 1985

presented by Mr. James Steele

The National Indian School Board Association is pleased to appear before the committee to express its strong support for S. 1298. There is no more serious problems in the Indian communities of this nation than alcohol and drug abuse.

Generally our comments with respect to S. 1298 concern the need to insure that the measures intended bv the outline of this legislation will, in fact, be implemented after the Congress acts. The bill embodies a number of constructive approaches to juvenile drug and alcohol problems. We would like to be sure that the Departments of the Interior and Health and Human Services, which are charged with most of these measures, will in fact, carry them out.

Accordingly, we believe the bill should be modified to specify which administrative officer and which administrative agency is required to take each action contemplated in the bill. In addition, we believe that a provision should be added vesting in any U.S. District Court in this nation, jurisdiction to hear an action brought to enforce any measure in this bill.

Effective implementation of measures in this bill will cost money. We believe it is incumbent upon every member of the Committee who also sits on the Appropriation Committee -- Mr. Abdnor, Mr. DeConcini, Mr. Burdick, and Mr. Andrews, to make a personal commitment to ensure that necessary provisions are made in the Appropriations Act to implement this bill.

The final accountability measure which we suggest is a followup reporting requirement. We suggest that the bill include clear direction to the Secretary of the Interior and Secretary of the Health and Human Service, notwithstanding any other federal procurement law to the contrary, to enter into a contract with the National School Board Association and the National Indian Health Board in the amount of $50,000.00 six months after enactment of the Indian Juvenile Alcohol and Drug Abuse Prevention Act. The contract should require that each named organization prepare and present a clear and concise report describing measures take to implement the Act by the Department of the Interior and the Department of Health and Human Services. Said report to include recommendations which have identified both the positive and negative procedures utilized for implementation of the Act and how to expand on and/or eliminate them as needed.

Our next concern relates to a number of effective local programs which now exist in the area of alcohol and drug abuse. A specific provision should be added to each title of the statute to ensure that the new programs mandated by this bill supplement and not jeopardize existing programs. In this connection, it would be helpful if your committee's report could identify a number of the effective programs and resources now in place.

The bill, as drafted, does not appear to give significant recognition to the local decision making "authorities" now in place throughout Indian communities. For example, at Bureau of Indian Affairs schools, Congress has already vested in local school boards the authority over local policies, procedures, and financial plans. S. 1298 should recognize this decision making authority and ensure that the local decision makers are allowed adequate participation on issues regarding the Act and also reinforce their already established local authority as outlined.

Similarly, within both the Bureau of Indian Affairs and Indian Health Services, substantial authority has been delegated from Washington to line officers out in the field. The bill must place specific responsibility on these line officers with language that is undebatable and not open to individual interpretation.

Although we have not, in this presentation, attempted to compare S. 1298 with a H.R. 1156, we would note the training requirements set forth in the House bill are more comprehensive than those contained in S. 1298. We prefer this comprehensive approach, especially when dealing with the very complex issue of enforcement of the juvenile laws and the facility requirement for incarceration, sight and sound separation from adults, separating facilities requirement, etc., and the fact that in order to effectively deal with these issues and give strength to the Act, funding for construction should be considered.

In conclusion, we congratulate the members of the Committee for introducing S. 1298. We hope the bill will be modified in accordance with our comments and promptly enacted.

Thank you.

JAMES STEELE
Special Presenter for
"THE NATIONAL INDIAN SCHOOL BOARD
ASSOCIATION"

Mr. **Taylor**. I don't think I have any questions at this time. We have had a pretty complete record here today.

Jane, do you have any questions?

Ms. **Wrenn**. No, I don't.

Mr. **Taylor**. Thank you all very much.

This is our last panel of witnesses for this bill, so we are going to take a short 5-minute recess and come back on S. 1621 dealing with amendments to the Indian education programs.

[Short recess taken.]

Mr. **Taylor**. We will resume the hearing with testimony on S. 1621, a bill to clarify eligibility for the Bureau of Indian Affairs funded education programs.

This bill is intended to resolve concerns that have arisen because of proposed regulations that would effectively disqualify many Indian students who are members of federally recognized tribes and who are now attending BIA schools.

Much opposition has been expressed to the regulations proposed by the Bureau of Indian Affairs, the opposition being expressed by tribes and national Indian organizations who are concerned that education program eligibility is treated differently than eligibility for other BIA programs, such as social services, Indian child welfare, housing, and other programs. Among such programs are additional or other types of educational programs offered by the Bureau of Indian Affairs as well as by other Federal agencies.

It is noted that the quarter-blood standard does not appear in many other items of legislation dealing with Indian affairs throughout the years, items that are administered by the Department of the Interior BIA. I refer, among other things, to the Snyder Act of 1921. Johnson-O'Malley speaks only with respect to Indian students. The 1972 Indian Education Act has no quarter-blood reference. The Indian Self-Determination and Education Assistance Act has no quarter-blood standard, nor does the Indian Child Welfare Act.

By separating children according to blood quantum, the Bureau of Indian Affairs is endangering their cultural identities and educational needs. S. 1621 is intended to put into law what has been the general practice of the BIA for many years, that is, to provide services to members of federally recognized tribes without discrimination between the membership.

Furthermore, while savings may be realized by the BIA, there is some evidence that the cost to the Federal Government through other programs administered by other agencies may simply be shifted or even increased by such limitation of eligibility.

Our first witness on S. 1621 is Nancy Garrett, Deputy Director, Office of Indian Education Programs with the Bureau of Indian Affairs.

Nancy.

STATEMENT OF NANCY C. GARRETT, DEPUTY DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS

Ms. **Garrett**. Thank you, Mr. Chairman.

You have the statement which was provided to you yesterday, and I assume that you plan to insert that entire statement into the record.

Mr. **Taylor**. It will be made a part of the record as if read in full.

Ms. **Garrett**. Thank you.

In view of the long day, I am prepared to do one of two things, Mr. Chairman, either to summarize the statement or to move right into questions, whichever is your pleasure.

Mr. **Taylor**. I think it might be helpful if you would just give us a very brief summary.

Ms. **Garrett**. I would be happy to do that.

I am pleased to be here to present the views of the Department of the Interior on S. 1621, a bill to amend 25 U.S.C. relating to Indian education programs.

S. 1621 repeals portions of the acts of March 1, 1907, and May 25, 1918, and March 3, 1909, which limit the use of appropriated funds to Indians of one-fourth or more degree Indian blood, to Indians of less than one-fourth degree Indian blood where adequate free public school facilities are not available and require tuition payments for non-Indian children attending Bureau funded schools.

This bill amends Public Law 95–561 to change the term "Indian student" to "eligible Indian students" and defines eligible Indian students as students who are members of a federally recognized tribe or at least one-fourth degree Indian blood. Dependents of Federal or tribal government employees who reside on or near a school site would be allowed to attend the Bureau funded school without charge. Ineligible students may attend Bureau operated schools under regulations prescribed by the Secretary of the Interior and tuition not to exceed fees charged by the nearest public school district may be charged. Tribally operated schools may allow ineligible students to attend their schools and may also charge tuition.

Mr. Chairman, we are strongly opposed to the enactment of S. 1621. This bill has the potential for considerably expanding the service population of our schools. Assuming the same level of ISEP funding, a significant increase in the number of eligible students would reduce the dollar amount provided under ISEP for every student in the BIA system.

Based strictly on ineligible students enrolled in the schools last year and for which, with one exception, ISEP funds were not provided, the eligible student population would be increased instantly by approximately 900. This impact would be major. For example, Mr. Chairman, large schools like Windgate High School on the Navajo Reservation would receive approximately $75,000 less for every 900 students added to the system. This equates to three or four teachers.

Although we do not know exactly how many children who are currently ineligible and would choose to attend Bureau funded schools, the number could be more than twice the 900 students already enrolled. In support of this, a 1979 survey of 188 tribal constitutions revealed that 93 had membership requirements of less than quarter blood.

The 900 student figure cited above includes approximately 100 students who are children of parents employed in BIA funded schools. S. 1621 would permit children of any Federal or tribal employee to attend a BIA funded school. Again, while there is no way to accurately predict the impact, the number of Federal employees employed by the Indian Health Service, the Bureau of Reclamation, the Bureau of Land Management, the Forest Service, the Fish and Wildlife Service, the National Park Service, the Corps of Engineers, and perhaps others could have a dramatic impact on school enrollment and, therefore, on the present funding level in our BIA funded schools.

The bill, in subsection (f)(3) effectively opens enrollment to any students without restrictions except that tuition may be charged. The Bureau's research indicates that in some areas, it costs more to educate a child in a Bureau funded school than in a public school. Establishment of the public school level as a ceiling, therefore, results in the Bureau school having to absorb the difference.

In addition to its elementary and secondary education programs, the Johnson-O'Malley, higher education, adult education, and BIA post-secondary school programs require 25 percent or more Indian blood to be eligible for BIA funding.

In the past several years, the Bureau has encouraged tribes to tighten up their membership requirements and has recommended that newly recognized and restored tribes use the quarter blood requirement as the basis for membership. In this era of severely limited Federal appropriations, it is imperative that we not expand our service population and thereby diminish the funds available for those now eligible for our services.

We think the quarter blood requirement is a fair basis for eligibility for education programs, and we strongly oppose this bill.

This concludes my statement, Mr. Chairman, and I would be happy to answer any questions.

[Ms. Garrett's prepared statement, on behalf of the Department of the Interior, follows:]

STATEMENT OF NANCY C. GARRETT, ACTING DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, UNITED STATES SENATE, ON S. 1621, A BILL "TO AMEND TITLE 25 U.S.C. RELATING TO INDIAN EDUCATION PROGRAMS, AND FOR OTHER PURPOSES."

SEPTEMBER 18, 1985

Mr. Chairman, I am pleased to present the views of the Department of the Interior on S. 1621, a bill "To amend title 25 U.S.C. relating to Indian education programs, and for other purposes."

S. 1621 repeals portions of the Acts of March 1, 1907 (25 U.S.C. 288), March 3, 1909 (25 U.S.C. 289), and May 25, 1918 (25 U.S.C. 297), which limit the use of appropriated funds to Indians of one fourth or more degree Indian blood; to Indians of less than one fourth degree Indian blood where adequate free school facilities are not available; and require tuition payments for non-Indian children attending Bureau-funded schools. The bill further amends P.L. 95-561 (25 U.S.C. 2008) to change the term "Indian student" to "eligible Indian students" and defines eligible Indian students as students who are members of a Federally recognized Tribe or at least one fourth degree Indian blood. Dependents of Federal or tribal government employees who reside on or near a school site would be allowed to attend the Bureau-funded school without charge. Ineligible students may attend Bureau-operated schools under regulations prescribed by the Secretary of the Interior, and tuition not to exceed fees charged by the nearest public school district may be charged. Tribal-operated schools may allow ineligible students to attend their schools and may also charge tuition.

We are strongly opposed to the enactment of S. 1621.

This bill has the potential for considerably expanding the service population of our schools. Assuming the same level of Indian School Equalization Program (ISEP) funding, a significant increase in the number of eligible students would reduce the dollar amount provided under ISEP for every student in the BIA system. Based strictly on ineligible students enrolled in the schools last school year and for which, with one exception, ISEP funds were not provided, the eligible student population would be increased instantly by approximately 900. This impact would be major. For example, large schools like Wingate High School would receive about $75,000 less for every 900 students added to the system. This equates to three or four teachers.

Although we do not know exactly how many children who are currently ineligible would become eligible and choose to attend Bureau-funded schools, the number could be more than twice the 900 students already enrolled. In support of this, a 1979 survey of 188 tribal constitutions revealed that 93 had membership requirements of less than quarter blood.

The 900 student figure cited above includes approximately 100 students who are children of parents employed in BIA-funded schools. S. 1621 would permit children of any Federal or tribal employee to attend a BIA-funded school. Again, while there is no way to accurately predict the impact, the number of Federal employees employed by Indian Health Service, Bureau of Reclamation, Bureau of Land Management, Forest Service, Fish and Wildlife Service, National Park Service, Corps of Engineers, and others could have a dramatic impact on school enrollment and, therefore, on the present funding level in our BIA-funded schools.

The Bill, in subsection (f)(3), effectively opens enrollment to any student, without restrictions, except that tuition may be charged. While the bill establishes a ceiling for the amount of tuition which may be charged, it is silent on a minimum level. The bill does not address either a floor or a ceiling level for contract schools. In addition, the Bureau's research indicates that in some areas it costs more to educate a child in a Bureau-funded school than in a public school. Therefore, establishment of the public school level as a ceiling results in the Bureau school having to absorb the difference. The bill also does not address whether ISEP funds may be provided for those students. The Bureau assumes that the intent is that they cannot.

Aside from the funding issue, the Bureau is concerned about the potential impact of additional students on facilities and staffing. Concerning facilities, the schools may become overwhelmed by applications and have to accept students on a first-come, first-serve basis. This could lead to the exclusion of students who have 25 percent or more Indian blood. Schools may use the number of denied students as a justification for new school construction or major facility improvement and repair.

At a time when the Bureau has just issued academic standards, which include staff/student ratios, this bill could result in the schools having to violate the very standards which have just been published. Also, the Administration is making every effort to reduce Federal employment, and this bill could have the opposite effect. Because students would be drawn from public schools, enactment of this Bill could lead to reduced employment there, as well as a reduction in the level of impact aid funding received by the affected public school districts. Bureau schools are already experiencing some problems in recruiting the best qualified teachers, and major increases in student enrollment simply compounds the problem.

Most of these same concerns apply to both Bureau-operated and contract schools.

We are also strongly opposed to section 2 of the bill because enforcement over the last two years of attendance boundaries and enrollment criteria have altered attendance patterns for many students. However, students are now adjusted to these changes. We think this section is unnecessary and would only result in confusion for students, parents, school boards, and school staff. In addition, this disregard of attendance boundaries would appear to violate the intent of the Congress as expressed in the FY 1985 Appropriations Act.

In addition to its elementary and secondary education programs, the Johnson-O'Malley, Higher Education, Adult Education Programs, and BIA Post Secondary Schools programs require 25 percent or more Indian blood to be eligible for BIA funding. In a recent court case, Diane Zarr vs Earl Barlow, et al., the United States District Court of the Northern District of California held that the 25 percent minimum requirement is appropriate for the scholarship program and is not arbitrary, capricious, or an abuse of discretion.

In the past several years, the Bureau has encouraged tribes to tighten up their membership requirements and has recommended that newly recognized and restored tribes use the quarter blood requirement as a basis for membership. In this era of severely limited Federal appropriations, it is imperative that we not expand our service population and thereby diminish the funds available for those now eligible for our services. We think the quarter blood requirement is a fair basis for eligibility for our education programs, and we strongly oppose this bill.

We also have a number of technical problems with the bill.

This concludes my prepared statement. I will be happy to answer any questions you may have.

Mr. Taylor. Thank you, Ms. Garrett.

I think first I would like to know how this figure of 900 students was derived. You say 100 of these would be children who are from families that are employed by a Federal agency, so that would leave 800. How did we come up with these?

Ms. Garrett. We actually went out to each of our superintendents and education program administrators and asked them to do a survey of each school for which they have jurisdiction. The 900 figure and the 100 figure is a direct result of the information reported to me by each of the superintendents around the country.

Mr. Taylor. This was a telephone survey?

Ms. Garrett. No, sir, it was in writing. Their responses to us, I believe in every case, was in writing.

Mr. Taylor. If these students were not already enrolled in a BIA school, how would the education supervisor be aware of these students? I guess my question is, are these students already enrolled?

Ms. Garrett. Yes, they are. The 900, Mr. Chairman, represents the number of ineligible students presently enrolled in BIA funded schools.

Mr. Taylor. The number of students that would be declared ineligible if the Bureau of Indian Affairs regulations are promulgated.

Ms. Garrett. The definition of ineligible that I am referring to is those who are less than 25 percent Indian blood and those who are non-Indians who do have the opportunity for attending a public school.

Mr. Taylor. I guess what I am driving at is your testimony is indicating that if this legislation goes through, it would result in an immediate increase of student population of 900, but it appears that they are already enrolled.

Ms. Garrett. No, sir, that is not what I was saying. Let's back up. The 900 students are in the schools, but except for one case which I mentioned in the testimony, they are not receiving ISEP funds. So, if the legislation is passed, the number of eligible students, the number of students who would be receiving ISEP funds, the number of additional students who would be receiving ISEP funds would increase by that number.

Mr. Taylor. It is my understanding that in the past, and I would like to exclude Oklahoma from this reference, there was local discretion at the agency level, I guess, as to allowing students of less than a quarter blood to attend the BIA schools, those students who were members of federally recognized Indian tribes. First of all, is that a correct statement?

Ms. Garrett. Let me answer by saying that prior to the passage of Public Law 95-561, funds provided to schools were not done so on a per student basis. They were simply provided to the schools basically on a general budget that the school indicated that it needed. So, it really wasn't until 1980 when the first count, if you will, was made that it really became an issue. So, prior to 1980, no one really considered whether or not the students were there, and the assumption was that since no reports were provided, all the students were Indian students, that is, 25 percent or more Indian blood.

Mr. Taylor. And members of federally recognized Indian tribes.

Ms. GARRETT. OK, but primarily the criterion being the 25 percent Indian blood.

Mr. TAYLOR. So, this issue became a matter of a budgetary consideration, I gather, after the introduction of a funding formula.

Ms. GARRETT. That is correct, because then the formula was based on the number of eligible students enrolled in the schools.

Mr. TAYLOR. The act that you refer to that established the formula does not refer to a quarter blood standard, does it?

Ms. GARRETT. To the best of my recollection, it does not. It simply states that——

Mr. TAYLOR. In what fiscal year did this question of eligibility of less than one quarter blood for participation in the ISEP formula was that raised?

Ms. GARRETT. I believe it was fiscal year 1980.

Mr. TAYLOR. Was that presented in the BIA budget justification to the Congress when you sought appropriations?

Ms. GARRETT. Do you mean to exclude them?

Mr. TAYLOR. Yes.

Ms. GARRETT. I don't believe that the——

Mr. TAYLOR. Or in the student count that was reflected in the budget justification.

Ms. GARRETT. I wasn't here in those days and I have not had occasion to go back and look at the budget presented by the Bureau for fiscal year 1980, but my guess would be that the students were included in the figures presented in the Bureau's fiscal year 1980 budget.

Mr. TAYLOR. I think it might be helpful if we could get a handle on when the Bureau first revised its method of counting students for budget justification purposes to limit the student count to those that were one-quarter blood or more.

Ms. GARRETT. OK. The first year that we excluded students of less than 25 percent Indian blood for the purposes of ISEP would have been fiscal year 1985. Some of the students were excluded the year before in 1984.

Now, the budget presented by the Bureau to the Congress, probably it was the budget for fiscal year 1986, and that was at the direction of the Congress in the conference report for the fiscal year 1985 appropriations, did not reflect the 900 students in the 1986 budget.

Mr. TAYLOR. In the fiscal year 1986 budget.

Ms. GARRETT. That is correct.

Mr. TAYLOR. The one which is presently before the Congress.

Ms. GARRETT. That is correct. I would refer to the Conference Report, No. 98-1159, in which the conference managers directed that the budget request, and I am reading directly from the conference report: "the budget request for fiscal year 1986 should be based only on those students eligible under current law."

Mr. TAYLOR. That is the conference report for fiscal year 1985?

Ms. GARRETT. That is correct. It is Conference Report No. 98-1159. Therefore, the budget presented to the Congress for fiscal year 1986 would have reflected only students who met the quarter blood.

Mr. TAYLOR. Did you participate in the budget process for the fiscal year 1985 budget, the one that led to this conference report?

Ms. Garrett. Yes, I did. I had just come to the Bureau at that time.

Mr. Taylor. In the appropriations hearings on either the House or the Senate side, were questions raised with respect to the number of students that would be affected by this?

Ms. Garrett. For 1985?

Mr. Taylor. By dropping or deleting those that are less than one-quarter blood.

Ms. Garrett. I don't believe that the hearings for 1985 included questions on that subject. They did in 1986, but I don't recall that they did in 1985.

Mr. Taylor. But the language that you are referring to is in the conference report for the fiscal year 1985 budget.

Ms. Garrett. That is correct.

Mr. Taylor. So, we can surmise, at least momentarily, that this language found its way into the conference report in the absence of any hearings on this question. Is that correct?

Ms. Garrett. That is my recollection. I do not recall that the issue came up in the hearings.

Mr. Taylor. Senator Melcher received information with respect to 922 children were funded by the ISEP formula who would not be eligible under these proposed regulations. Your statement indicates roughly 900. I am not just sure where the 922 came from.

Ms. Garrett. The 922 is the exact figure. I used the figure of approximately 900. Included in that 922 were approximately 18 students who are ineligible because they are beyond the age of 21. So, the number of students related to the quarter blood issue is approximately 900.

Mr. Taylor. I see.

You indicate that there was one exception. You referred to that in your testimony. Could you expand on that?

Ms. Garrett. That was for the Cherokee school located in Cherokee, NC.

Mr. Taylor. I would like to have this question followed through by Virginia Boylan of the ranking minority member's staff.

Ms. Boylan. It is one exception, but how many students are we talking about?

Ms. Garrett. Approximately 140. It might be helpful, and I have provided this information to the committee, that of the 922, approximately 140 were provided ISEP funds, and those were the 140 students at Cherokee. Approximately 420 of the 922 were funded in the Bureau schools through impact aid funding. The balance, or approximately 361, no funds were provided for those students in the schools, and they were simply absorbed by the schools in the last fiscal year.

Mr. Taylor. If a less that quarter degree blood Indian child of a Federal employee is enrolled in a BIA school, whether for the convenience of the employee or as a part of the employee's contract, is ISEP money provided for that child or not?

Ms. Garrett. In fiscal year 1985, ISEP funds, except for the one case that we mentioned, were not provided for any child who was of less than 25 percent Indian blood whether they were the child of an employee or not.

Mr. Taylor. This was in 1981?

Ms. **Garrett**. In 1985. This past year, no ISEP funds were provided for any ineligible children.

Mr. **Taylor**. Prior to that, such a child would have been counted in for ISEP funding purposes?

Ms. **Garrett**. It appears, Mr. Chairman, that prior to the 1984-85 period, those children were included as were other children who were less than 25 percent Indian blood.

Mr. **Taylor**. I think Virginia has a followup question.

Ms. **Boylan**. A followup question on the impact aid. What is the basis for that?

Ms. **Garrett**. The local public school district counted the students in their count and received funds from the State to pay for those students who were determined to be ineligible in the Bureau-funded schools.

Ms. **Boylan**. So, the public school got the money, not the Bureau school, or did they passthrough?

Ms. **Garrett**. No, passthrough.

Ms. **Boylan**. So, the Bureau school received impact aid money from the Department of Education through the local school district.

Ms. **Garrett**. Whatever that process is, that is correct. From the U.S. Department of Education to the State to the local public school district to the school board. By the way, most of those schools were contract schools rather than Bureau-operated schools.

Ms. **Boylan**. Contract schools?

Ms. **Garrett**. Yes.

Ms. **Boylan**. Do you have more information you could provide us on that, where the schools are, where the students are?

Ms. **Garrett**. I would be happy to do that.

Ms. **Boylan**. Thank you.

Mr. **Taylor**. To your knowledge, Ms. Garrett, is there any other program that is operated by the Bureau of Indian Affairs, and again my question excludes Oklahoma, in which program eligibility is limited to children or adults that are more than quarter blood, for example, general assistance, adult vocational education, child welfare grants?

Ms. **Garrett**. No, sir. The answer is no, except for those programs that I mentioned in my testimony, Johnson-O'Malley, higher education. The answer to that question is no.

Mr. **Taylor**. So, this is unique to the BIA Education Program.

Ms. **Garrett**. To education.

Mr. **Taylor**. Right. I might say the 1918 Act is also unique to education.

Ms. **Garrett**. I beg your pardon, Mr. Chairman?

Mr. **Taylor**. I say I might just add that the 1918 Act is also unique to education.

Ms. **Garrett**. Yes, that is correct. I was reminded by staff that regulations for the Adult Vocational Program have a 25-percent Indian blood requirement.

Mr. **Taylor**. When were those regulations promulgated?

Ms. **Garrett**. Mr. Chairman, I have to defer to staff on that. I am really not familiar with that.

Mr. **Taylor**. I think Virginia has some additional questions.

Ms. **Garrett**. Fine.

Ms. **Boylan**. Since Indian preference is effective in hiring for both BIA and IHS, and Indian preference, of course, means tribal membership or half-bloods, so the children of half-bloods who are not tribal members would all be quarter-bloods anyway, can you give the estimates of the number of BIA and IHS employees who are not Indians but who live on or near BIA school sites, to which this bill is limited, and who have children who might be eligible to attend such schools?

Ms. **Garrett**. I really don't, because there are a number of BIA employees who send their children to public schools because that is what they want to do. I have really never gone out and tried to determine how many other than education employees to include the maintenance staff or Indian Health Service—I really have no idea what that impact would be.

Ms. **Boylan**. So, we don't know how many non-Indian children there are. If we were to amend this bill in markup and limit it just to BIA and IHS, would the Department's objections on this potential expansion be somewhat reduced?

Ms. **Garrett**. Yes, it would.

Ms. **Boylan**. Thank you.

I assume the motivation for the proposed regulations comes from the BIA's desire to save funds, and you have responded to that by saying the Appropriations Committee has put you in this position.

Ms. **Garrett**. But I would also say one other thing, too, Madam Chairman, that there is a Solicitor's opinion that addresses quite specifically the issue of the quarter blood. While the opinion was written specifically in response to the Cherokee issue, it is also broad enough in nature that it very clearly addresses the 25-percent issue. So, I would say that the motivation is not a budget issue. The decision to go with the regulations is consistent with what the Congress directed through the conference report and also is consistent with the Solicitor's opinion.

Ms. **Boylan**. We would like to have a copy of that opinion for our records.

Ms. **Garrett**. I would be happy to provide it to you.

Ms. **Boylan**. OK. But in any case, funding is one of the issues. Has the Department produced any estimates on how many of these displaced children would then become eligible for other Federal funding through the Department of Education—for example, title IV, Impact Aid and chapter 1?

Ms. **Garrett**. We have not.

Ms. **Boylan**. Thank you.

I understand the regs are still not published in final form?

Ms. **Garrett**. That is correct.

Ms. **Boylan**. Have you been able to develop any consensus that you can talk about today on what is meant by an adequate public school and would that consensus include an overcrowded public school such as seems to exist in North Carolina?

Ms. **Garrett**. Let me separate the questions. On the first one, have we arrived at a consensus, I was a little bit disappointed at the small number of comments that we received in response to that proposed regulation. We received a total of 51 comments, and only 19 of the comments addressed the definition of adequate free public education.

None of the comments which we received addressed the overcrowding of the schools. I have not considered that at this point. Very honestly, we simply have not formulated our ideas on what those final regs might look like.

I would say that some of the comments raised some legal issues, and I have referred those legal issues to our Solicitor's office, and I am awaiting receipt of their response to those legal issues before we proceed with any finalization of those regulations.

I answered the first part. Did I answer your second part?

Ms. BOYLAN. I think so.

Ms. GARRETT. OK.

Mr. TAYLOR. Nancy, in light of what you just said, that you are awaiting receipt of the Solicitor's opinion, we are fast entering into the current school year——

Ms. GARRETT. Actually, Mr. Chairman, we are into the school year.

Mr. TAYLOR. OK. My daughter graduated from college a year ago, so I don't pay any attention any more.

Are the students who are currently less than quarter blood but are members of federally recognized tribes and have been attending the BIA schools, are they being included in the student count for this current school year?

Ms. GARRETT. Mr. Chairman, the student count will be taken in another week and a half, so——

Mr. TAYLOR. Will the Solicitor act that quickly?

Ms. GARRETT. I would not be waiting for the Solicitor's opinion to do the count. The students who presently are not 25 percent Indian blood would not be included in the count. That would be based on, again, the language in the conference report that addresses the funding for 1986 and, second, the Solicitor's opinion that those who are less than 25 percent Indian blood are not eligible for ISEP funding.

Mr. TAYLOR. Mr. Mahsetky has a question relative to this.

Mr. MAHSETKY. You are recertifying all the students, right, to decide whether or not they continue to be eligible to attend BIA schools?

Ms. GARRETT. As a part of the count process, yes. There is a certification required.

Mr. MAHSETKY. How is the recertification coming along? We understand that there is a problem in that the students are not responding or the parents are not responding and turning in the certification forms.

Ms. GARRETT. Mr. Chairman, we don't require new certification every year. When we go out to do the count, we look in the child's folder to make sure that there is a certificate of Indian blood in that folder. So, they don't have to resubmit that. Once we have that on file, then it is always a part of the file.

There are a couple of tribes who have had difficulty in producing certificates of Indian blood for some of their students. We have said in those cases where, for very good reasons, a mother or a father might be reluctant to reveal the parent and, therefore, the degree of Indian blood, that if we can get a statement from a minister, from a doctor, or from some other appropriate official, we would take for counting purposes a document other than just the formal certificate of Indian blood in order to determine that person eligible as a 25 percent Indian blood student.

Mr. **Mahsetky**. So, have you anticipated the numbers of students who might potentially not qualify once the certification process is completed?

Ms. **Garrett**. Not really. I don't think that the 900 figure will change very much. We have been working with a couple of the tribes this summer to assist them in getting some of their students certified that they felt were 25 percent Indian blood, and we have made some progress, but I really don't see a major change in that 900 figure.

Mr. **Mahsetky**. What happens if the certification forms are not in by the time of the count next week, I guess it is?

Ms. **Garrett**. The week after next. They are not counted. But keep in mind that the process takes about 2 months, so after we do the student count, we send back to each of the schools what we call a student roster. Those rosters then come back into us later in October. We don't do the ISEP allotments until about the middle of November, so they still have that additional time to be trying to get the proper documentation.

Mr. **Mahsetky**. But potentially if they don't have the proper documentation and they did last year and the year before, they could be disqualified and asked to leave the school?

Ms. **Garrett**. We have not asked any student to leave the school. We have permitted the students to stay there. We just have not provided the ISEP funding for the student.

Mr. **Mahsetky**. OK. Thank you.

Ms. **Garrett**. Keep in mind, too, that once the certification is there, we don't question the certification. It becomes a matter of the file and we accept it accordingly.

Mr. **Mahsetky**. OK. Thank you.

Ms. **Boylan**. Where are the 93 tribes located that you have identified as having less than quarter degree blood requirements for membership?

Ms. **Garrett**. I can provide that for the record. The staff over in Indian Services that has responsibility for constitutions pulled that information together. They have it listed by tribe and we can provide that for the record.

Ms. **Boylan**. What we would also like to do is to have some connection between those tribes and the location of BIA day schools so we have some idea of what we are talking about.

Ms. **Garrett**. Fine. We would be glad to do that.

[At the request of Ms. Boylan, the following information was submitted by Ms. Garrett for inclusion in the record:]

The following information is that upon which our calculation was based, and was prepared by the Bureau's Office of Tribal Government Services. The only tribes specifically listed are the 37 which have no blood quantum requirement for membership. Our figure was derived from totalling the lower four categories on the list, which are marked with an asterisk. The staff person who prepared this summary has retired and the working documents from which it was compiled are no longer available. However, if the Committee wishes to have the full listing, the Bureau will query the Area Offices to obtain the data.

Blood degree requirements from 188 tribes on which research has been completed:

Requirement	No. Tribes		
1/2 degree specific tribal blood	6		
1/2 degree total Indian blood	2		
		8	(4.25%)
1/4 degree specific tribal blood	53		
1/4 degree total Indian blood	27		
1/4 degree blood of a Calif. tribe	7		
		87	(46.28%)
* 1/8 degree specific tribal blood	9		
1/8 degree total Indian blood	7		
1/8 degree blood of a Calif. tribe	1		
		17	(9.04%)
* 1/16 degree specific tribal blood	3		
1/16 degree total Indian blood	2		
1/16 degree blood of a Calif. tribe	1		
		6	(3.20%)
* Special blood-degree requirements imposed if other situations exist		33	(17.55%)
* No minimum blood degree required for enrollment		37	(19.68%)
		188	(100.00%)

Number of recognized tribes	492	
Less Alaska Tribes	- 217	
	275	
Number of recognized tribes which have no roll or list of members specified in their constitutions as a basic membership roll (from the 275 in lower 48 states)	30	(10.90%)

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NO SPECIFIC BLOOD QUANTUM REQUIREMENT

The following Indian organizations imposed no specific blood quantum requirement as a membership criterion.

1. Alabama-Quassarte Tribal Town (Oklahoma).
2. Bad River Band of the Lake Superior Tribe of Chippewa Indians of the State of Wisconsin.
3. Cheyenne River Sioux Tribe of South Dakota.
4. Covelo Indian Community (California).
5. Dry Creek Rancheria.
6. Eastern Shawnee Tribe of Oklahoma.
7. Goshute Reservation (Utah).
8. Iowa Tribe of Indians of the Iowa Reservation in Nebraska and Kansas.
9. Kaw Indian Tribe of Oklahoma.
10. Lower Sioux Indian Community in Minnesota.
11. La Posta Band of Mission Indians (California).
12. Makah Indian Tribe of the Makah Indian Reservation (Washington).
13. Manchester Band of Pomo Indians of the Manchester Reservation of California.
14. Miami Tribe of Oklahoma.
15. Oglala Sioux Tribe of the Pine Ridge Reservation of South Dakota.
16. Peoria Tribe of Indians of Oklahoma.
17. Port Gamble Indian Community (Washington).
18. The Pueblo of Santa Clara (New Mexico)
19. Puyallup Tribe of the Puyallup Reservation (Washington).
20. Red Cliff Band of Lake Superior Chippewa Indians (Wisconsin)
21. Rumsey Indian Rancheria (California)
22. Sac and Fox Tribe of the Mississippi in Iowa
23. Sault Ste. Marie Tribe of Chippewa Indians
24. Seminole Nation of Oklahoma
25. Seneca-Cayuga Tribe of Oklahoma
26. Shoshone-Bannock Tribe of the Fort Hall Reservation of Idaho.
27. Sokaogon Chippewa Community (Wisconsin)
28. Standing Rock Sioux Tribe (North Dakota and South Dakota).
29. Kashia Band of Pomo Indians of the Stewarts Point Rancheria (California).
30. Swinomish Indians of the Swinomish Reservation (Washington).
31. Thlopthlocco Tribal Town (Oklahoma)
32. Tonkawa Tribe of Indians of Oklahoma
33. Tulalip Tribes of Washington
34. Tule River Indian Reservation of California
35. United Keetoowha Band of Cherokee Indians (Oklahoma)
36. Ute Indian Tribe of the Uintah and Ouray Reservation
37. Wyandotte Tribe of Oklahoma.

Ms. BOYLAN. For example, I think some of the tribes in Oklahoma may be on that list of 93, and I don't think there are any BIA day schools in Oklahoma.

Ms. GARRETT. We have boarding schools but not day schools. That is correct.

Ms. BOYLAN. Yes.

Ms. GARRETT. Excuse me, but don't forget that the 25-percent policy that we follow applies to the boarding school as well as to the day schools.

Ms. BOYLAN. I understand that, yes.

Ms. GARRETT. OK.

[At the request of Ms. Boylan, the following information was submitted by Ms. Garrett for inclusion in the record:]

Of the 37 tribes listed, numbers 3, 12, 15, 17, 18, 19, 22, 26, 28, and 33 could be served by BIA day schools or contract schools. Of course, any of these tribal members could attend off-reservation boarding schools if they met the one-fourth degree blood quantum requirement.

Ms. BOYLAN. You mentioned in your testimony that under this bill schools would be open without restriction to non-Indians. I think, first of all, the restriction on attendance is that it would be under rules and regulations, prescribed by the Secretary of Interior. No. 2, we tried to track the existing language in U.S.C. 288 and 289 and would like your comments on how you think this bill differs from the way those statutes treated white children in Indian schools and the way we have treated them here in S. 1621.

Ms. GARRETT. I really hadn't thought about that.

Ms. BOYLAN. I mean, we were trying not to mess with existing law except where we really have to. So, if you want to submit information on that——

Ms. GARRETT. I might want to think that through a little bit, Madam Chairman, and provide you with some information for the record.

Ms. BOYLAN. OK. Thank you.

[At the request of Ms. Boylan, the following information was submitted by Ms. Garrett for inclusion in the record:]

I do not believe there would be any differences, except that non-Indian dependents of Federal employees would be allowed to attend Bureau schools tuition-free under S. 1621.

Ms. BOYLAN. This is rather a personal question, but I would like it on the record. How would you personally assess the potential cultural and psychological impact of educationally separating, solely by blood count, children who are members of the same family, who may live in the same house or next door or down the street from their sisters, brothers, cousins, whatever? What is your personal feeling about that, if you don't mind?

Ms. GARRETT. I would certainly provide that for the record, but I would also hasten to say that there is a law and I am trying to carry out the law. What I personally think doesn't really make any difference, but I would be willing to take a crack at that.

Ms. BOYLAN. Well, we are trying to change the law.

Ms. GARRETT. Yes, I understand that.

Mr. TAYLOR. In writing or orally?

Ms. GARRETT. In writing.

Ms. BOYLAN. Thank you.

[At the request of Ms. Boylan, the following information was submitted by Ms. Garrett for inclusion in the record:]

I have no personal feeling on this issue.

Ms. BOYLAN. I understand the Cherokee Indian school has been in existence for more than a century. Am I correct that it has always served Cherokee Indian children who are members of the tribe?

Ms. GARRETT. You mean including those who are less than 25 percent?

Ms. BOYLAN. Yes.

Ms. GARRETT. As far as I understand, that is correct.

Ms. BOYLAN. Thank you.

Now, we are looking at this November 15 deadline which you and I have discussed. If these children have to be transferred November 15, if this bill, for example, got passed and then vetoed, how likely is it that that school would be underutilized and perhaps subject to closure?

Ms. GARRETT. Let me comment on that by saying that it would not be my intention that since those students are actually already attending the school, and as I indicated, the school has already opened, it would not be our plan or expectation to actually transfer the children out of the school this year. The issue would be whether or not we would be able to provide ISEP funds for the children.

So, I would not see at this point that we are considering asking those children to leave the school come November 15 or any other date this year.

Ms. **Boylan**. But with 140 students with no money, how do you suppose the school is going to operate without that money? That is the problem, isn't it?

Ms. **Garrett**. That is the question, indeed. My answer again goes back to both the conference report and, more specifically, the Solicitor's opinion which was geared specifically to the Cherokee issue in which it very clearly states that we have no legal basis to provide funding for those 140 students of Cherokee.

Ms. **Boylan**. I would differ very strongly with your solicitor but——

Ms. **Garrett**. I appreciate that.

Ms. **Boylan**. But I would also like to know how this problem is going to be resolved if we do nothing up here.

Ms. **Garrett**. The best way I can answer you is to say that in view of the references that I have just made, I would find it not possible to provide ISEP funding for those 140 students.

Ms. **Boylan**. Then, the next logical question is why were the children allowed to enroll this fall when you knew you weren't going to have any money to pay for them?

Ms. **Garrett**. We were hoping that we would be able to work with the State to come up with a cooperative agreement—not the State, the local public school districts—and we still hope that is a possibility and something that we still hope that we can bring about. The public school districts would provide perhaps some impact aid funds for those students and they would be permitted to stay in school for the rest of this year.

Ms. **Boylan**. Wouldn't they have to be enrolled in the public school before they could be counted?

Ms. **Garrett**. No. In fact, a few moments when I mentioned impact aid funds that are being made available for students now, those students are not enrolled in public schools. They are enrolled in the BIA-funded schools.

Ms. **Boylan**. I am really surprised at that, because I can't believe the impact aid regulations allow that, but——

Ms. **Garrett**. We have had numerous discussions recently with the U.S. Department of Education on that very issue, but I can absolutely assure you that there are BIA-funded schools which are receiving impact aid funds for students in those schools.

Ms. **Boylan**. Thank you.

Would you agree that the practice of allowing children of BIA and IHS employees to attend BIA schools has aided or benefited, in many ways, the recruitment and retention of personnel?

Ms. **Garrett**. I would certainly agree with that statement.

Ms. **Boylan**. Even if we deleted section (f)(2), it is likely under employee contracts or the sheer fact that Indian preference is the mode, many children would still be eligible to attend these schools with or without the Federal employee provision.

Ms. **Garrett**. Yes.

Ms. **Boylan**. The other question I have is that you sent a memo out on August 20 indicating that children of quarter blood will not be funded, in spite of the fact that regulations are not in place. Is that——

Ms. **Garrett**. I believe that memo is consistent with the current law which prohibits us from providing—and also with the directive of the Congress through the conference report saying that for 1986 we will not include ISEP funds for students who are presently ineligible under the current law.

Ms. **Boylan**. How does the BIA as an institution and as the primary trustee for Indians in this country justify inconsistencies with respect to program eligibility? For example, even within the BIA education programs, there is the Tribal College Program, for which eligibility is just tribal membership.

Ms. **Garrett**. That is correct.

Ms. **Boylan**. And this is to say nothing of inconsistencies with what other Federal agencies have as their service population. It seems to me that it would be one thing if the Department of Education were coming up here and testifying they wanted to limit their population to quarter-bloods, in spite of the laws on eligibility, but it seems very inconsistent for the Bureau to come up here and testify, as trustee, that it opposes tribal membership eligibility for education when for all other services that I can think of in the Bureau they go to members of federally recognized tribes.

Ms. **Garrett**. But the current law addresses the 25-percent issue for education and specifically for elementary and secondary education. I mean, it is in the law and it is in the regulations.

Ms. **Boylan**. We are trying to correct that law here. My question is why isn't the Bureau supporting it on the basis that all their programs are geared to tribal members with this one exception and, in my opinion, and I think it is Senator Melcher's too, this law has been repealed by implication at least six times.

Ms. **Garrett**. Our Solicitor's Office would not agree with the latter part of your statement. Back to the question of the 25 percent, again, not to repeat myself, but the law, we believe, is specific that we cannot provide educational services to children of less than 25 percent Indian blood. Until the law is changed or some other action is taken by the Congress, that is the way we believe we have to operate.

Ms. **Boylan**. I hear what you are saying, but what I am asking is, why aren't you supporting the tribal membership provision in this bill?

Ms. **Garrett**. Well, the administration feels strongly that there is a major budgetary impact if we were to assume responsibility for all of these students who are less than 25 percent Indian blood.

Ms. **Boylan**. In spite of the fact that they are members of federally recognized tribes.

Ms. **Garrett**. That is true.

Ms. **Boylan**. And they are eligible for all other services. You say that there will be a budgetary impact but you haven't given us any figures to support the fact that there is going to be any budgetary increase in BIA-funded schools.

Ms. **Garrett**. I think the budgetary impact—I tried to illustrate it in both the prepared statement and in my paraphrasing of that statement—at a school like Windgate High School, if we were to right now pay ISEP funds for all of the students who are in the school who are not eligible, there would be an impact of approximately $75,000 on a school like Windgate. As I said in the statement, that is three or four teachers. Now, if we assume——

Ms. **Boylan**. But we haven't differentiated between those children who not eligible for some reason or another and those children who are enrolled at Windgate who are members of a federally recognized tribe. Those are the kids we are really looking at here. That is what we haven't been able to——

Ms. **Garrett**. I just don't have any idea how many students might become eligible who are now ineligible and who would wish to attend the BIA schools. There is absolutely no way for me to get a handle on that, certainly not those who would choose to attend the schools. Now, we could make a stab at perhaps how many children might become eligible, but I certainly would not be able to predict how many would choose to attend the schools.

However, if you just take those, and as I said in the statement, that are ineligible now and enrolled in the schools, that impact alone on a school like Windgate would be $75,000.

Ms. **Boylan**. But for many schools there is no impact.

Ms. **Garrett**. Yes, there is, because they are not getting ISEP. What I am saying is that if we gave them ISEP which is what your bill would suggest, then that has a very major budgetary impact.

Ms. **Boylan**. Let's get back to the issue of the children who are less than quarter blood who are members of federally recognized tribes. What we need from the Bureau is to know how many children we are talking about who are not now already in the schools and who are now ineligible but who might be served under the bill, I just can't believe there are any out there, frankly, that aren't already in that 900. If there are, we want to know where they are and who they are.

Ms. **Garrett**. We have no idea.

Ms. **Boylan**. Otherwise, you are coming up here and testifying and making a statement of assumption that there is going to be a huge budgetary impact, but you have given us nothing to back that up with that we can say, well, we can't pass this bill because of the budget impact.

Ms. **Garrett**. There would be absolutely no way that I can think of that I could go out and find out how many children are members of federally recognized tribes who are not 25 percent Indian blood. I mean, I don't know that we have that kind of census information. I would be willing to look into it, but I certainly don't think——

Ms. **Boylan**. But then the question is how you can make the statement that it is going to have a budgetary impact if you can't even determine it.

Ms. **Garrett**. What we are saying is that, in the example I gave in the statement about the number of tribes who presently permit enrollment of less than 25 percent Indian blood, if that is an indicator, we could be talking about a significant impact. We admit in the statement and I say now that we really don't know what those figures are, and I can't think of a really accurate way to determine what that number might be.

Ms. **Boylan**. OK. Thank you.

Ms. **Garrett**. I might add, Madam Chairman, if the committee has some ideas about how we might approach that, I would certainly be responsive to pursuing that, but I really am struggling with how to be responsive to you on that particular question.

Ms. **Boylan**. As you know, our ideas are in the bill.

Ms. **Garrett**. I understand that.

Ms. **Boylan**. But I am willing to work with the Department if you think the Department could come up here and support something at some future time.

Ms. **Garrett**. We certainly could have some further conversations with you, particularly on the issue of the children of BIA and perhaps Indian Health Service employees, and I certainly would be willing to have some further conversation with you on that.

Ms. **Boylan**. Thank you.

Mr. **Taylor**. I don't think I have any further questions. Thank you very much.

Our next witness is Charles Bernhardt, labor relations specialist, National Federation of Federal Employees; accompanied by Beth Moten, legislative liaison, NFFE, Washington, DC.

STATEMENT OF CHARLES BERNHARDT, LABOR RELATIONS SPECIALIST, NATIONAL FEDERATION OF FEDERAL EMPLOYEES, ACCOMPANIED BY BETH MOTEN, LEGISLATIVE LIAISON, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. **Bernhardt**. Thank you, Mr. Chairman.

We would like to submit for the record our full statement and we would also like to supply later for the record a copy of the comments that our union made to the Bureau on the proposed regulations. [illegible] would like to have those included as well.

Mr. **Taylor**. Without objection, they will be included in the appropriate place in the record.

Mr. **Bernhardt**. Thank you.

I appreciate this opportunity to testify today on S. 1621, a bill which Senator Melcher has introduced to prevent unfair changes from being made in the conditions under which certain children could attend Bureau of Indian Affairs schools. The National Federation of Federal Employees represents the majority of Federal employees at the BIA and the Indian Health Service who will be affected by such changes. We are thus extremely concerned about this issue which is vitally important to both our members and their children.

On May 10, 1985, the Bureau of Indian Affairs proposed regulations which would prevent children with less than one quarter Indian blood from attending BIA schools unless other public schools were unavailable. These regulations would affect some 922 students across the Nation currently attending BIA schools. Most of them are members of federally recognized Indian tribes or are the children of BIA school employees or Indian Health Service employees.

BEST COPY AVAILABLE

We are firmly opposed to these changes, and we are delighted that members of this committee and other Members of Congress have rallied to stop them through S. 1621. We commend you for your efforts thus far.

Quite frankly, we are at a loss to explain why the Bureau has embarked on this seemingly needless project. In issuing the regulation changes, the BIA has erroneously cited provisions of 25 U.S.C. as justification for restricting attendance at BIA funded schools. The referenced sections of the code, sections 288, 289, and 297, in no way establish such a restriction. These provisions address the payment of tuition and the expenditure of appropriations, but the Bureau's proposed regulations merely address the attendance by children at BIA schools. The Bureau is erroneously using citations which address appropriations spending in order to limit attendance at Bureau funded schools.

In order to receive the full range of benefits and services from the BIA and Indian Health Service one must be a member of a federally recognized tribe. Yet, if the proposed regulations go into effect, a child who is a tribal member with less than one quarter Indian blood suddenly could no longer attend a BIA school located on his or her reservation.

Such a child would be Indian enough for everything except attending school with his or her playmates. The social and psychological effects of such an absurdity could be devastating to children who consider themselves to be Indian but who may not have one quarter Indian blood.

The proposed regulations would continue to permit these children to attend BIA schools if no other adequate public school facilities were available. However, the BIA has defined the term "adequate school facility" as one which: First, is within 50 miles from the student's home or does not exceed 1½ hour's bus ride, second, provides or is willing to provide bus service to within 1 mile's walk from the student's home and 1½ miles for secondary students, and, third, meets applicable State standards.

At the very least, the definition is vague and arbitrary. But aside from being vague, the proposed standards for the availability of adequate free school facilities are overly restrictive and burdensome. Federal courts have considered several cases concerning forced busing to achieve racial desegregation. We know of no case where a court endorsed a plan that would require students to ride a bus 50 miles or 1½ hours to get to school when closer school facilities were available.

Furthermore, these proposed regulations would not achieve desegregation but would in fact segregate the student population. We thus question the constitutionality of regulations which use ancestry as the basis for attendance at BIA schools.

Requiring students to ride a bus for such excessive distances and/or time simply cannot be justified. The proposed regulation is punitive, because it requires students to undergo lengthy bus trips simply because of their ancestry or because they are children of Federal employees. This regulation would not only unnecessarily punish the children and their families but would also be a serious detriment to local BIA schools which would lose allotments based on lower enrollments. Ultimately, the tribes served by these people would suffer also, because education is one of the most important trust responsibilities which the Federal Government owes Indian tribes.

Our membership's greatest concern is the attendance in BIA schools by children of BIA and IHS employees. Many of these children are non-Indian, but they have been permitted to attend BIA schools for many years. The practice has certainly benefitted the Bureau by serving as an important means of recruiting and retaining qualified staff to work in the isolated locations of most BIA schools, agency offices, and Indian hospitals. This, in turn, has helped the Indian tribes since the high quality staff at the BIA and Indian Health Service results in better education for Indian children, better services from agency offices, and better health care for Indian people.

S. 1621 seeks to correct the punitive measures which would be taken against these children if the regulations went into effect. The bill includes members of federally recognized tribes in the definition of eligible students at BIA schools and makes clear that dependents of employees of the Federal and tribal governments are permitted to attend Bureau operated schools without charge for tuition. Additionally, it repeals sections 288, 289, and 297 of title 25 U.S.C. cited by the Bureau which created the quarter blood distinction in the first place.

This is clearly in the best interests of the Bureau, its employees, and the Indian community, and we strongly urge the bill's passage.

That concludes my remarks, and I will be glad to answer any questions you may have.

[Mr. Bernhardt's prepared statement and the aforementioned comments on S. 1621 by the National Federation of Federal Employees follow. Testimony resumes on p. 212.]

NATIONAL FEDERATION OF FEDERAL EMPLOYEES
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WASHINGTON DC
20006
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SERVING FEDERAL EMPLOYEES AND THE NATION SINCE 1917

STATEMENT OF THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES, PRESENTED BY
CHARLES BERNHARDT, LABOR RELATIONS SPECIALIST

BEFORE

THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

ON

S.1621

ATTENDANCE OF CHILDREN WITH LESS THAN ONE-QUARTER
INDIAN BLOOD AT BUREAU OF INDIAN AFFAIRS SCHOOLS

SEPTEMBER 18, 1985

Mr. Chairman and Committee Members:

I appreciate the opportunity to testify today on S.1621, a bill which Senator Melcher has introduced to prevent unfair changes from being made in the conditions under which certain children could attend Bureau of Indian Affairs Schools. The National Federation of Federal Employees represents the majority of Federal employees at the BIA and the Indian Health Service who would be affected by such changes. We are thus extremely concerned about this issue which is vitally important to both our members and their children.

On May 10, 1985, the Bureau of Indian Affairs proposed regulations which would prevent children with less than one-quarter Indian blood from attending BIA schools unless other public schools were unavailable. These regulations would affect 922 students across the nation currently attending BIA schools. Most of them are members of Federally-recognized Indian tribes or are the children of BIA school employees or IHS employees. We are firmly opposed to these changes, so we are delighted that members of this Committee and other Members of Congress have rallied to stop them through S.1621. We commend you for your efforts thus far.

Quite frankly, we are at a loss to explain why the Bureau has embarked on this seemingly needless project. Based on the legal citations used by the Bureau to justify these proposed regulations, we must assume that an attempt is being made to reduce funding. In issuing its regulation changes, the BIA has erroneously cited 25 U.S. Code as justification for restricting attendance at BIA-funded schools. The referenced sections of this Act (§§ 288,289, and 297) in no way establish such a restriction.

25 U.S.C. § 288 states:

> White children may, under rules and regulations prescribed by the Commissioner of Indian Affairs, be admitted to any Indian day school***.

25 U.S.C. § 289 provides:

> White children may, under rules prescribed by the Commissioner of Indian Affairs, be admitted to Indian Boarding Schools on the payment of tuition fees at a rate to be fixed in said rules***.

25 U.S.C. § 297 provides:

> No appropriation, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood whose parents are citizens of the United States and the State where they live and where there are adequate free school facilities provided.

These provisions address the payment of tuition and the expenditure of appropriations. But the Bureau's proposed regulations merely address the attendance of children at BIA schools. The Bureau is erroneously using citations which address appropriations spending in order to limit attendance at Bureau-funded schools.

Furthermore, 25 U.S.C. § 297 is obsolete. This citation stems from a 1918 Appropriations Act, and is the only statutory provision we can find that limits the term "Indians" to those with at least one-quarter Indian blood. None of the numerous Indian education laws passed since include this restriction in their application. Nor, to the best of our knowledge, has the Bureau during the last sixty-seven years applied this arcane limitation.

In order to receive the full range of benefits and services from the BIA and Indian Health Service, one must be a member of a Federally-recognized tribe. Yet, if the proposed regulations go into effect, a child who is a tribal member with less than one-quarter Indian blood suddenly could no longer attend a BIA school located on his or her reservation. Such a child would be "Indian enough" for everything except attending school with his or her playmates. The social and psychological effects of such an absurdity could be devastating to children who consider themselves to be Indians, but who may not have one-quarter Indian blood.

The proposed regulations would continue to permit these children to attend BIA schools if no other adequate public school facilities were available. However, the BIA has defined an "adequate school facility" as one which:

1) Is within 50 miles from the student's home or does not exceed one and a half hour's bus ride;
2) Provides or is willing to provide bus service to within one mile's walk from a student's home (1-1/2 miles for secondary students); and
3) Meets applicable State standards.

At the very least, this definition is vague and arbitrary. Because of the varying road conditions in areas where BIA schools are located, it is not clear whether the one and one-half hour time limit refers to best or worst circumstances. Nor is it clear whether one mile's walk (or 1-1/2 miles) to a bus would be reasonable if the journey were through an undeveloped wilderness as opposed to a paved sidewalk.

Aside from being vague, the proposed standards for the availability of adequate free school facilities are overly restrictive and burdensome. Federal courts have considered several cases concerning forced busing to achieve racial desegregation. We know of no case where a court endorsed a plan that would require students to ride a bus fifty miles or one and one half hours to get to school when closer school facilities were available. In the case Swann v. Charlotte-Mecklenberg Board of Education, 402 U.S. 1(1971) the Supreme Court held that in examining busing plans "no rigid guidelines" could be made concerning student transportation because of widely different conditions in different local areas. Certainly, the conditions in BIA schools vary widely. Furthermore, these proposed regulations would not achieve desegregation, but would in fact segregate the student population. We thus question the constitutionality of regulations which use ancestry as the basis for attendance at BIA schools.

Requiring students to ride a bus for such excessive distances and/or times simply cannot be justified. There is no statutory, let alone constitutional mandate to meet by denying enrollment to students of less than one-fourth Indian blood. The proposed regulation is punitive because it requires students to undergo lengthy bus rides simply because of their ancestry or because they are the children of Federal employees. This regulation would not only unnecessarily punish the children and their families, but would also be a serious detriment to local BIA schools which would lose allotments based on lower enrollment. Ultimately, the tribes served by these people would suffer also, because education is one of the most important trust responsibilities which the Federal government owes Indian tribes.

Our membership's greatest concern is the attendance in BIA schools by the children of BIA and IHS employeees. Many of these children are non-Indian, but they have been permitted to attend BIA schools for many years. The practice has certainly benefited the Bureau by serving as an important means of recruiting and retaining qualified staff to work in the isolated locations of most BIA schools, agency offices and Indian hospitals. This, in turn, has helped the Indian tribes since the high quality staff at the Bureau of Indian Affairs and the Indian Health Service results in better education of Indian children, better service from agency offices, and better health care for Indian people. Highly qualified employees of BIA and IHS cannot be expected to remain in these often remote locations if they will be forced to bus their children to public schools as far away as fifty miles. Furthermore, NFFE members consider the practice of permitting employees' children to attend BIA schools to be a condition of their employment, the terms of which must be determined through collective bargaining.

S.1621 seeks to correct the punitive measures which would be taken against these children if the regulations went into effect. The bill includes members of Federally-recognized tribes in the definition of "eligible students" at BIA schools, and makes clear that the dependents of employees of the Federal or tribal governments are permitted to attend Bureau-operated schools without charge for tuition. Additionally, it repeals §§ 288, 289, and 297 of 25 U.S.C. cited by the Bureau which created the "quarter-blood" distinction in the first place. This is clearly in the best interests of the Bureau, its employees, and the Indian Community. We strongly urge the bill's passage.

That concludes my statement. I will be happy to answer any questions.

National Federation of Federal Employees

James M. Peirce • President
Abraham Orlofsky • Secretary Treasurer

1985 OCT 10

In reply refer to: 3010 CB 40

July 5, 1985

Hand Deliver

Dr. Kenneth G. Ross
Acting Director
Office of Indian Education Programs
U.S. Department of the Interior
Room 3512
19th and C Streets, N.W.
Washington, DC 20240

Dear Dr. Ross:

The National Federation of Federal Employees offers these comments on the Office of Indian Education Programs' proposed changes to its regulations concerning Conditions Under which Non-Eligible Students May Attend Bureau of Indian Affairs-Funded Schools. These proposed regulations appeared in the FEDERAL REGISTER of May 10, 1985. NFFE has a vested interest in this subject as our BIA Council of Consolidated Locals represents the majority of employees of BIA and OIEP. These employees will be directly affected by this proposal since it would bar many of their children from attending BIA schools. These comments are made on behalf of both the Council and our National Office. We are firmly opposed to the proposed changes in regulation because they are not in the best interests of Indian children or of BIA employees and their children, whatever their race. The proposed changes are not based on law and are contrary to Congressional intent. Finally, the attendance of children of BIA employees at BIA schools is a "condition of employment" for these employees as that term is defined at 5 U.S.C. §7103(a)(14). Therefore, the conditions under which such children attend BIA schools is a matter that must be determined through collective bargaining between BIA and the Council. See 5 U.S.C. §7117(a)(3).

THE REGULATIONS PROPOSED BY OIEP ARE NOT BASED IN LAW IN THAT THE STATUTORY PROVISIONS CITED AS SUBSTANTIATION DO NOT RESTRICT ATTENDANCE AT BIA-FUNDED SCHOOLS

In the proposal, OIEP refers to three (3) statutory provisions which it claims substantiates its proposal to restrict attendance at Indian schools. These are 25 U.S.C. §§288, 289, and 297.

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NFFE National Vice Presidents:
Region 1. Jim Pasquarello, Beverly, MA
Region 2. Robert E. Estep, Jr., Chambersburg, PA
Region 3. A. B. Reynolds, Panama City, FL
Region 4. Richard E. Reiman, Terlton, OK
Region 5. William P. Davis, Parker, AZ
Region 6. Eric J. Meisen, Camarillo, CA
Region 7. Robert S. Keener, Keizer, OR
Region 8. James M. Waddell, Hazelwood, MO
Region 9. Ronald Kipke, Glen Ellyn, IL

However, these statutes do not limit attendance at all. 25 U.S.C. §288 states:

> White children may, under rules and regulations prescribed by the Commissioner of Indian Affairs, be admitted to any Indian day school ***.

25 U.S.C. §289 provides:

> White children may, under rules prescribed by the Commissioner of Indian Affairs, be admitted to Indian Boarding Schools on the payment of tuition fees at a rate to be fixed in said rules ***.

Finally, 25 U.S.C. §297 provides:

> No appropriation, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood whose parents are citizens of the United States and the State wherein they live and where there are adequate free school facilities provided.

These statutes address the payment of tuition fees and the expenditure of appropriations, not the enrollment or attendance in Indian schools. Thus, this statutory limitation, if still effective, merely limits the expenditure of appropriated funds under very specific conditions, i.e. the availability of other adequate free school facilities. Moreover, necessary funds could conceivably originate from other sources, such as state funds, tuition charges, tribal contributions, etc., thus negating the outright prohibition of attendance contemplated by the proposed regulations. Under these circumstances, the OIEP's interpretation of these statutes as to support regualtions restricting attendance is clearly erroneous.

The authority to determine eligibility for enrolling in Indian schools is vested with local Indian Tribes through their designated school boards under the provisions of P.L. 95-561. OIEP has recognized this in its regulations at 25 C.F.R. §32.4(a)(3) and (4). The matter is not within the domain of OIEP. Therefore, your proposal is in excess of your statutory jurisdiction and thus cannot stand. Rather than inviting extensive litigation on this by various parties, we urge that the proposal be withdrawn.

The provision codified in 25 U.S.C. §297 stems from a 1918 appropriations Act. It is the only statutory provision we can find that limits the term "Indians" as those with at least a one quarter Indian blood. Since then there have been numerous laws passed regarding the education of Indians. None of them include this restriction in their application. Indeed, nor, to the best of our knowledge has the Bureau during the past sixty-seven years ever applied this arcane limitation. One cannot help but wonder what motivates the Bureau to suddenly resurrect a 67-year old statute and become vitally concerned with the effectuation of a statute which it effectively ignored for more than half a century, all this to the clear detriment of a group of innocent children. The proposed regulations would create the anamolous situation where an Indian child with less than one-fourth degree blood quantum is an enrolled member of his/her tribe and is therefore eligible to receive the full range of services from the BIA and IHS; except that such a child could not attend the BIA school located on his/her reservation. Such a child, and there are, indeed, many, would be "Indian enough" for everything except going to school with his or her friends and playmates. The social and psychological effects of such an absurdity could be devastating in that this arbitrary criterion for BIA school enrollment would do a great injustice to children who happen to be of less than one quarter Indian blood quantum, but for all other purposes, including and perhaps most importantly, self-identification, are Indians. Followed to its logical conclusion, this same child when graduating from college and looking for a job, would receive preference over non-Indian candidates when applying to teach at the same school where he/she was orginally denied enrollment. Such irony is not only absurd, is is cruel and unnecessary.

LOCAL DECISIONS REGARDING TUITION CHARGES ARE CONSISTANT WITH CONGRESSIONAL INTENT

The background statement for the May 10 proposal states, "These proposed regulations will resolve the inconsistent tuition charging practices under existing regulations ..." The word "resolve" indicates that OIEP finds inconsistency in tuition charges to be a problem. We believe the opposite is true; inconsistencies are a result of local decision-making, and that is in accordance with Congressional intent. Any inconsistencies that exist would demonstrate that the system is working as intended.

25 U.S.C. §288 and 289 give the Commissioner of Indian Affairs the authority to issue regulations on tuition rates for white children attending day schools and boarding schools, respectively. The current regulations do just that. 25 U.S.C. §31.3(a) sets a rate of tuition for attending boarding schools at a point that does "not exceed the per capita cost of maintenance at the school attended." It is certainly within the OIEP's discretion to set tuition at a lower point, or to waive tuition entirely. Presumably, this authority has been delegated to the local level where the specific conditions that apply can be considered.

25 U.S.C. §31.3(b) delegates authority to set tuition for day school

students to the superintendent or other official in charge, provided that such rate cannot exceed tuition charged for out-of-district students by the public school district where the school is located. The delegation of authority to the school level is a wise decision and in keeping with the congressional mandate for local control of Indian education. See Sections 1121(d) and 1129(b) of P.L. 95-561. Any inconsistency that may result from such local decision making is not harmful. Different local situations create different needs that can best be met at that level. OIEP is addressing a non-problem in these proposed regulations.

THE PROPOSED STANDARD FOR AVAILABILITY OF AN ADEQUATE FREE SCHOOL FACILITY IS VAGUE, ARBITRARY AND OVERLY RESTRICTIVE

25 U.S.C. §297 prohibits expenditures for the education of "children of less than one-fourth Indian blood ... where there are adequate free school facilities provided." The proposed definition of "adequate free school facility" is one which:

> (1) Is within 50 miles from the student's home or does not exceed one and a half hour's bus ride;
> (2) Provides or is willing to provide bus service to within one mile's walk from a student's home (1 1/2 miles for secondary students); and
> (3) Meets applicable State standards.

This definition is poorly conceived and appears solely intended to keep those students of less than one-fourth Indian blood who are currently attending BIA schools from continuing to do so. The vagueness of the proposal is patently apparent. Does the 50 miles refer to a one-way or round trip? The same question applies to the one and a half hours. Furthermore, since BIA schools are located in areas in which inclement and hazadous road conditions are common, is the hour and a half time limit under best or worst circumstances? Where must that point within a one mile (or 1 1/2 miles) walk of the student's home to which bus services might be provided be? It is a one mile walk along paved sidewalks or one mile through an undeveloped wilderness? What are the ramifications where the school district expresses "willingness" to provide such bus service but fails to actually provide it? Is that student left to his or her own discretion? We believe the proposal is so vague that it is legally untenable.

Aside from being vague, the proposed standards for the availability of adequate free school facilities are overly restrictive and burdensome. Federal courts have considered several cases concerning forced busing to achieve racial desegration. We know of no case where a court endorsed a plan that would require students to ride a bus 50 miles or one and a half hours to get to school when closer school facilities were available. In the case Swann v. Charlotte-Mecklenberg Board of Education, 402 U.S. 1 (1971), the Supreme Court held that in examining busing plans "no rigid guidelines" could be made concerning student tranportation because of widely different conditions in different local areas. Certainly, the conditions in BIA schools vary especially widely.

The conditions of roads and access to schools on, say, the Navajo reservation differ significantly from those around the Cherokee Agency in North Carolina. The Court found that among the factors to be considered in assessing the distance students will be bussed are the effects on the children's health and the impact on the educational program. 402 U.S. at 30. The Court considered these in light of the purpose behind the transportation plan in Swann: court-ordered desegregation of a school system to meet consitutional mandates. In the case of attendance at BIA schools, requiring students to ride a buse for such excessive distances and/or times simply cannot be justified. There is no statutory, let alone constitutional mandate to meet by denying enrollment to students of less than one-fourth Indian blood. The proposed regulation is punitive in its result of requiring students to undergo lengthy bus rides to and from school based on their ancestry or because their parents have chosen to work in BIA schools. This proposal would not only unnecessarily punish the children and their families, but would also be a serious detriment to local BIA schools which would lose allotments based on lower enrollement, and would, in turn, punish the tribe(s) such school serves. The proposal would certainly create more problems than it would solve, especially since no problem has been identified for the proposal to address. We urge that the proposal be withdrawn.

ATTENDANCE IN BIA SCHOOLS BY CHILDREN OF BIA STAFF IS A CONDITION OF EMPLOYMENT. TERMS FOR SUCH CHILDREN'S ATTENDANCE MUST BE DETERMINED THROUGH COLLECTIVE BARGAINING.

5 U.S.C. §7114(b)(2) explicates the responsibility of agencies and exclusive representatives to negotiate in good faith on any "condition of employment." Section 7103(a)(14) defines that term as:

> Personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include

> policies, practices, and matters-
> "(A) relating to political activities prohibited under subchapter III of chapter 73 of this title;
> "(B) relating to the classification of any position; or
> "(C) to the extent such matters are specifically provided for by Federal statute.

It is an unfair labor practice for an agency to refuse to negotiate as required by the Civil Service Reform Act. See 5 U..C. §7116(a)(5).

For many years the children of BIA employees have been allowed to attend BIA schools, regardless of their blood quantum. Additionally, we know of no cases in which tuition was paid for such children. This practice has certainly benefited the Bureau, as it has served as an important means of recruiting and retaining qualified staff to work in the isolated locations of most BIA schools. This, in turn, has benefited the Indian people, as high quality staff at BIA schools results in better eduction of Indian children. It would not be in the best interests of the Bureau or the Indian community to discontinue this practice.

Furthermore, this long-standing practice is clearly a condition of employment for BIA staff. It is a personnel practice in that personnel are and historically have been granted a benefit by virtue of their employment, It does not relate to prohibited political activities on the classification of a position. Neither does it relate to a matter that is specificially provided for by Federal statute. Since the regulation of this subject is issued by the Bureau of Indian Affairs and since the Council holds exclusive recognition at that level for a unit consisting of a majority of the Bureau's eligible employees, the matter is a mandatory subject of bargaining. See 5 U.S.C. §7117(a)(3). Therefore, the terms for attendance at BIA schools by children of BIA staff must be negotiated by the Bureau and the Council. By this letter the Council is putting the Bureau on notice tht the Council requests and expects to negotiate over the substance of any Bureau-proposed changes to current regulation and/or past practice in this matter.

In conclusion, we recommend that the proposal to amend these BIA regulations be withdrawn. Going ahead with the proposal would create far more problems than it would solve. The proposal is contrary to the central purpose of OIEP: providing the highest quality of education to Indian children. We hope you will seriously consider our comments.

Sincerely,

James M. Peirce
President

cc: John G. Combs, Labor Relations Officer, BIA

Mr. **Taylor**. Thank you, Mr. Bernhardt.

Do you have any additional comments you would like to make, Ms. Moten?

Ms. **Moten**. No, I do not. Thank you.

Mr. **Taylor**. I think Virginia Boylan has a question.

Ms. **Boylan**. Just one. How many BIA/IHS employees does your union represent?

Mr. **Bernhardt**. We will have to get that for the record, but I suspect it is somewhere approximately 14,000, but we will get that for the record.

Ms. **Boylan**. And most of those are located——

Mr. **Bernhardt**. Most of those are in the Bureau of Indian Affairs, and they are located out in the field at the agencies and at the school levels.

Ms. **Boylan**. Thank you very much.

Mr. **Taylor**. Thank you very much.

[In regard to the above question of Ms. Boylan, the following letter, dated September 20, 1985, was received from James M. Peirce, president, National Federation of Federal Employees:]

National Federation of Federal Employees

NFFE

James M. Peirce • President
Abraham Orlofsky • Secretary Treasurer

1985 SEP 24 PM 2 29

In reply refer to: USS-CB-25

September 20, 1985

The Honorable Mark Andrews
Chairman, Senate Select Committee
  on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20515
Attention: Michael Mahsetky

Dear Chairman Andrews:

This is to confirm NFFE's response to a question asked by Virginia Boylan of the Senate Select Committee on Indian Affairs' staff at the hearing September 18, 1985 on S. 1621. We estimated that the National Federation of Federal Employees represents approximately 14,000 employees in the Bureau of Indian Affairs and the Indian Health Service. Indeed, upon checking our records, I have determined that NFFE represents 11,000 employees at BIA and 3,000 at IHS, thus making a total of 14,000.

Also, attached is a copy of our union's comments to the Bureau on its proposed regulations. We were told that this would be included in the record.

I appreciate your concern about this issue which is of vital importance to our members. Please do not hesitate to let me know if I can be of further assistance.

Sincerely,

James M. Peirce

James M. Peirce
President

2020 K Street, NW; Suite 200; Washington, DC 20006; Phone: (202) 862-4400

NFFE National Vice Presidents:
Region 1, Jim Pasquarello, Beverly, MA
Region 2, Robert E. Estep, Jr., Chambersburg, PA
Region 3, A. B. Reynolds, Panama City, FL
Region 4, Richard E. Reiman, Tarlton, OK
Region 5, William P. Davis, Parker, AZ
Region 6, Eric J. Meleen, Camarillo, CA
Region 7, Robert S. Keener, Keizer, OR
Region 8, James M. Waddell, Hazelwood, MO
Region 9, Ronald Kipke, Glen Ellyn, IL

Mr. TAYLOR. Next, we will have Robert Youngdeer, principal chief of the Eastern Band of Cherokee Indians of North Carolina; accompanied by Joanne Henry, member of the Cherokee Indian Tribe School Board; and George Waters, Legislative Consultant, Washington, D.C.

Chief Youngdeer, we welcome you to the committee and look forward to your testimony.

STATEMENT OF ROBERT S. YOUNGDEER, PRINCIPAL CHIEF, EASTERN BAND OF CHEROKEE INDIANS OF NORTH CAROLINA, ACCOMPANIED BY JOANNE HENRY, MEMBER, CHEROKEE INDIAN TRIBE SCHOOL BOARD; AND GEORGE WATERS, LEGISLATIVE CONSULTANT, WASHINGTON, DC

Mr. YOUNGDEER. Thank you, sir.

Mr. Chairman, members of the Select Committee on Indian Affairs, my name is Robert Youngdeer. I am the principal chief of the Eastern Band of Cherokee Indians in North Carolina. I am accompanied today by Joanne Henry, a member of the school board of Cherokee. With us is George Waters, our legislative liaison.

I cannot tell this committee how much we appreciate the help you have shown us and how pleased we are that you have introduced S. 1621, a bill that we strongly support. We also appreciate your understanding of the time constraints we and other tribes are under which has resulted in the expedited scheduling of this hearing.

Mr. Chairman, there is nothing more important to the Cherokee people than the education of our children. We have had a Bureau of Indian Affairs school on our reservation since 1876. At no time in our history have we been discriminated against nor have we discriminated against a member of the tribe and told them they could not attend our school because of their blood quantum.

We use the same criteria that the Congress has used in every Indian act we have read, and that is that eligible Indian students are those who are enrolled members of a federally recognized tribe.

In 1924, Congress passed the Cherokee Allotment Act which did a lot of things to our tribe not the least of which was to forcibly establish a membership criterion that was well below the one quarter blood quantum by establishing a roll of members. The tribe then objected to many of the names on the roll because of a lack of blood quantum, but the Secretary of the Interior enrolled them anyway, and they and their offspring have been served by the BIA ever since.

In 1949, the Secretary of the Interior had published in the CFR a revision of the membership roll of Eastern Cherokees. In 25 CFR chapter 1, section 75.16 again allowed for membership at less than one quarter blood.

Now, in 1985, almost three quarters of a century after 25 U.S.C. 297 was enacted as a part of the 1918 appropriations bill, the Bureau of Indian Affairs is telling us that we have to kick 150 children who are enrolled members of our tribe out of the Cherokee school and forcibly bus them to off-reservation public schools in Swain or Jackson County. The sole basis for their argument is the language in the 1918 appropriations bill.

Let us examine the language of 25 U.S.C. 297 a little more carefully. The language of section 297 provides, "No appropriation except appropriations made pursuant to treaties shall be used to educate children of less than one-fourth Indian blood whose parents are citizens of the United States and of the State where they live and where there are adequate free school facilities provided."

The BIA ignores other language in the appropriations act from which this codified language was taken. The BIA appropriation act of May 25, 1918, 40 Stat. 561–564 makes clear that this limitation was not to be applied to all Indian schools at the time it was enacted. The paragraph from which the codified language was taken also provided for support of Indian day and industrial schools not otherwise provided for. It also stated and provided further that, "No part of this appropriation shall be used for the support of Indian day and industrial schools where specific appropriation is made."

A number of Indian schools were, in the very year of the 1918 appropriations act, including the Cherokee school in North Carolina, otherwise provided for and received specific appropriations.

To further illustrate that Congress never intended this funding restriction to be a universal, inflexible rule in the 1922 Interior Department Appropriation Act, 42 Stat. 576, Congress provided that aid for the schools in Cherokee, Creek, Choctaw, Chickasaw, and Seminole nations and the Quapaw agency in Oklahoma would not be subject to the one-fourth degree spending limitation. The quarter blood limitation appears in a separate part of the appropriations bill under the area of general education and, as you can see from the above, was intended to be viewed separately from those sections of the bill that actually funded individual, specifically named schools, including the Cherokee school.

We believe that the limitation was intended to apply to Indians attending off-reservation schools and/or where Indian schools are needed for pupils of more than one-fourth Indian blood, the 1912 Indian appropriations bill, meaning that less than quarter-bloods should not take room away from the more than quarter-bloods. We do not have a limitation of room at our school.

Even more significant, since this 1918 appropriation limitation, Congress has enacted a number of statutes specifically dealing with the education of Indian children. None of these more recent statutes limit educational services to Indian children on the basis of a one quarter blood degree or any other specific blood quantum. This legislation includes the Snyder Act that was enacted in 1921 just three years after section 297, the Johnson-O'Malley Act, the Federally Impacted Areas Act, the School Facilities Construction Act, the Elementary and Secondary Education Act of 1965, the Indian Education Act of 1972, the Indian Self-Determination and Education Assistance Act, the Tribally Controlled Community College Assistance Act of 1978, and the Education Amendments Act of 1978.

In these major acts of Congress authorizing programs, including education programs for Indians, the standard definition for eligibility used is that that an Indian is a person who is an enrolled members of a federally recognized tribe. The definition in Public Law 93–638, the Indian Self-Determination and Education Assistance Act, is that an Indian is a person who is a member of an Indian tribe. This same definition is used in the Indian Health Care Improvement Act of 1976.

The definition used in the Indian Reorganization Act of 1934, a major comprehensive statute that radically affected the Federal Government's relationship with tribes and with Indians, provides the definition of Indian as all persons of Indian descent who are members of any recognized Indian tribes now under Federal jurisdiction and all Indians who are descendants of such members residing within the present boundaries of any Indian reservation.

Even the solicitor of the Interior Department, in issuing an opinion on Indian preference in hiring at the BIA and IHS pursuant to the *Tendall* and *McCarey* cases, stated that the BIA could not use quarter blood as a determinant factor in defining Indian but would have to grant preference to all members of federally recognized tribes.

In fact, the definition of Indian is not a racial factor but is related to one's tribal affiliation. In discussing Indian preference, the Supreme Court noted that preference is not directed toward a racial group consisting of Indians. Instead, it applies only to members of federally recognized tribes. This operates to exclude many individuals who are racially to be classified as Indians. In this sense, the preference is political rather than racial in nature.

For the BIA to discriminate against these children based on racial factors is clearly unconstitutional and will surely lead to law suits against the Department. Not only are the attempts by the BIA to kick these kids out of our schools at odds with congressional intent, but they totally contravene existing CFR regulations governing BIA education policies. The educational mission of the Bureau is to be carried out through specific policies stated in 25 CFR including section 32 to ensure that Indian tribes fully exercise self-determination and control in planning, priority setting, development, management, operations, staffing, and evaluation, and all aspects of the educational process.

Section 32 again encourages and defends the right of tribes to govern their own internal affairs in all matters relating to education. Section 32, Choice of School, affords Indian students the opportunity to attend local day schools and other schools of choice. Education close to home provides day and residential educational services as close to an Indian student's home as possible except where a student elects to attend a school elsewhere for specialized curricular offerings or services.

Mr. Chairman, we live in the middle of the Smokey Mountains, and the time it takes to drive is much longer per mile than on open highways. We have had bad roads that get icy and dangerous at various times throughout the year, and we have a lot of automobile accidents. I really don't think it would be wise for us to have these children bused for what well may be many hours a day off our reservation.

In the landmark busing case of *Swan* v. *Charlotte-Mecklenberg Board of Education*, 43 U.S.C. 1, 1971, the Supreme Court approved a busing plan that required elementary students to travel not over 35 minutes at the most. Our children would be in buses for hours every day. Additionally, as can be seen in the attached document from Jackson County, they don't have any room for our kids once they do get bused there.

We also want to address what we speculate may be at the heart of the Interior Department's position on this matter, and that is the subject of money. We suspect that the prevailing attitude is one that says if we can get these less than quarter-bloods out of school, we will save money under the Indian school equalization formula. The BIA might be correct, but we think OMB and the Congress had better take a look at the bigger picture, because for the forced placement of these children in public schools is going to cost the Federal Government more money than would the present system of allowing them to continue to attend the BIA school under ISEP.

The attachment, "Financial Factors," empirically shows that it will cost $224,208 more for impact aid dollars to Swain and Jackson Counties than it would cost the Bureau to fund the less than quarter-bloods under ISEP. So, it may save the Interior Department some money, but it will cost the Education Department and the U.S. Treasury more.

The quarter of a million dollar figure is for impact aid only. The Indian children transferred to the public schools would also be eligible for title IV funding, for Johnson-O'Malley funding, and for chapter 1 funding which average $125 per student, $150 per student, and $674 per student respectively.

The 141 students that we would have to send to Swain and Jackson Counties would result in Federal obligations of $134,000 more for those three programs than is presently being expended. This does not even include the potential obligation the Federal Government would have under impact aid construction 815 funds to the Swain and Jackson County schools who would have to build more classrooms to house our children.

We do not even see how enactment of S. 1621 will cost the BIA any more money. When the BIA submitted its proposed fiscal year 1986 budget to Congress earlier this year, there was no reduction requested under ISEP for the less than quarter-bloods at Cherokee or for other less than quarter-blood Indians around the country who were funded last year.

The attached letter from Dr. Ross to Senator Melcher identifies 590 students around the country who are less than quarter blood attending BIA schools. If the Bureau planned to cut off funding for these students, they should have submitted a budget request including a reduction of $1.2 million under ISEP for 590 students. These students are already budgeted for under the ISEP request. Therefore, the Congress would not have to appropriate any new funds to allow them to be funded.

What of the BIA argument that the enactment of this bill will open the flood gates to lots of Indians seeking BIA education dollars? We think they are intentionally creating a crisis where none exists.

To start with, 80 percent of the tribes of the United States have quarter blood as a criterion from tribal membership. Therefore, we are only talking about 20 percent of the tribes. Of that 20 percent, some are Pueblos of New Mexico who do not have any blood quantum criteria for membership but who are certainly more than quarter blood, and many of the others would be in Oklahoma and

California where there are no BIA funded day schools anyway. The Indian students in those states attend public schools.

The Cherokee school was built by the BIA in 1976 as a community school and is supposed to be available for all residents of the reservation. As a result, we have allowed non-Indians to attend our school, but we have not sought ISEP funding for them. Rather, we have been magnanimous and allowed them to attend for free. We have been negotiating with the State of North Carolina and we hope that the passage of this bill will convince them to pay tuition for the non-Indians who are not covered as eligible under the bill.

We believe that the Bureau should be responsible for all tribal members and for children of school employees. If the regulations the BIA has proposed earlier this year were implemented, we and other tribes would potentially end up losing many of our dedicated non-Indian teachers and support personnel who have school aged children attending the tribal schools because they would not want to see their kids bused great distances off the reservation. This would even be more of a factor out West where local schools and living areas would be farther from the reservation.

Our school is fully accredited by the State of North Carolina and the Southern Association of Schools. If we lose the amount of funds, over $300,000, that we anticipate we would by cutting out the less than quarter-bloods, we would have to lay off teachers and take other actions that could well result in losing our accreditation. If that were to happen, we would have to close the school, and that would really hurt our community.

I am pleased that the National Tribal Chairmen's Association and the National Congress of American Indians have passed resolutions taking the same position on this issue that we have.

Mr. Chairman, that basically concludes all of my factual arguments. I think I would ask this committee and, more particularly, as the Interior Department and the BIA and the OMB what kind of effect they think their policies are going to have on our children who get kicked out of the Cherokee school. These are Indian children we are talking about. They are born and raised on the Cherokee Indian Reservation. We have instilled in them that they should take pride in their heritage, and they have studied and participated in cultural activities that are uniquely Indian. Their friends are all Indians, and they have attended BIA schools all their lives as have their parents and grandparents.

Now, the Federal Government is going to suddenly tell them that they are really not Indian or, just as bad, they are not Indian enough to continue attending their own school. We ask you, as our trustee, to think what kind of an effect this will have on these kids. I think it will be devastating. Many of them will feel ashamed, and I am afraid many of them will drop out of school altogether. Frankly, I cannot believe the lack of compassion being demonstrated by those who oppose this bill.

Our student count week is fast approaching, and unless the Congress enacts S. 1621 quickly, we may be prohibited from counting our less than quarter-blood students for ISEP funding. They are already enrolled and have been in school for over a month, as the BIA told us to go ahead and enroll them and let them begin their classes. When the ISEP allocations come out in November, are we supposed to then remove these kids from the school?

We and the other tribes affected by this issue will greatly appreciated prompt enactment of this bill, and we pray the Department will realize the need for the legislation.

Thank you, Mr. Chairman. Thank you and your staff for the great help that they have been to us. If you have any questions, I will be glad to try to answer. Either I or either one of my associates will be glad to try to answer questions.

[Mr. Youngdeer's prepared statement, with appendixes, on behalf of the Eastern Band of Cherokee Indians, follows. Testimony resumes on p. 241.]

TESTIMONY OF
ROBERT S. YOUNGDEER, PRINCIPAL CHIEF
OF THE
EASTERN BAND OF CHEROKEE INDIANS
ON

S.1621
A BILL TO AMEND TITLE 25
OF THE UNITED STATES CODE,
RELATING TO INDIAN EDUCATION PROGRAMS
AND FOR OTHER PURPOSES

PRESENTED TO THE SELECT
COMMITTEE ON INDIAN AFFAIRS
OF THE UNITED STATES SENATE

SEPTEMBER 18, 1985

Mr. Chairman and Members of the Select Committee on Indian Affairs,

My name is Robert S. Youngdeer. I am the Principle Chief of the Eastern Band of Cherokee Indians of North Carolina. I am accompanied today by Joann Henry who is a member of the Cherokee School Board. With us is George Waters, our legislative liason.

I can not tell this Committee enough how appreciative we are of the help you have shown us and how pleased we are that you have introduced S.1621, a bill that we strongly support. We also appreciate your understanding of the time constraints we and other tribes are under which has resulted in the expedited scheduling of this hearing.

Mr. Chairman, there is nothing that is more important to the Cherokee people than is the education of our children. We have had a Bureau of Indian Affairs school on our reservation since 1876. At no time in our history have we discriminated against a member of the tribe and told them they could not attend our school because of their blood quantum. We use the same criteria that the Congress has used in every Indian act we have read, and that is that eligible students are those who are enrolled members of a federally recognized tribe.

In 1924 Congress passed the Cherokee Allotment Act which did a lot of things to our tribe, not the least of which was to forceably establish a membership criteria that was well below the one quarter blood quantum by establishing a roll of members.

The Tribe then objected to many of the names on the roll because of a lack of blood quantum, but the Secretary of the Interior enrolled them anyway and they and their offspring have been served by the BIA ever since. In 1949, the Secretary of the Interior had published in the CFR a revision of the membership roll of the Eastern Cherokees and in 25 CFR Ch.1, Sec.75.16 again allowed for membership at less than quarter blood.

Now in 1985, almost three-quarters of a century after 25 USC 297 was enacted as a part of the 1918 Appropriations bill, the Bureau of Indian Affairs is telling us we have to kick 150 children, (who are enrolled members of our tribe), out of the Cherokee School and forceably bus them to off reservation public schools in Swain or Jackson Counties, and the sole basis for their arguement is the language in the 1918 Appropriations bill.

Let us examine the language of 25 USC 297 a little more carefully. The language of Section 297 provides:

> No appropriation, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood whose parents are citizens of the

> United States and of the State where they live and where there are adequate free school facilities provided.

The BIA ignores other language in the appropriation act from which this codified language was taken. The BIA Appropriation Act of May 25, 1918, 40 Stat. 561, 564, makes clear that this limitation was not to be applied to all Indian schools at the time it was enacted. The paragraph from which the codified language was taken also provided. "For support of Indian day and industrial schools not otherwise provided for." It also stated: "And provided further, that no part of this appropriation shall be used for the support of Indian day and industrial schools where specific appropriation is made."

A number of Indian schools were, in the very year of the 1918 Appropriations Act act, including the Cherokee School in North Carolina, "otherwise provided for," and received "specific appropriation." To further illustrate that Congress never intended this funding restriction to be a universal, inflexible rule, in the 1922 Interior Department Appropriation Act, (42 Stat. 576), Congress provided that aid for the schools in Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations and the Quapaw Agency in Oklahoma, would not be subject to the one-fourth degree spending limitation.

The quarter blood limitation appears in a seperate part of the appropriations bill under the area of general education and as you can see from the above , was intended to be viewed seperately from those sections of the bill that actually funded individual specifically named schools, including the Cherokee School. We believe that the limitation was intended to apply to Indians attending off reservation schools and/or "where Indian schools are needed for pupils of more than one-fourth Indian blood" (1912 Indian Appropriations bill), meaning the less than quarter bloods should not take limited room away from the more then quarter bloods. We do not have a limitation of room at our school.

Even more significant, since this 1918 appropriation limitation, Congress has enacted a number of statutes specifically dealing with the education of Indian children. None of these more recent statutes limit educational services to Indian children on the basis of a one-quarter blood degree or any other specific blood quantum. This legislation includes: the Snyder Act which was enacted in 1921 just three years after Sec. 297, the Johnson-O'Malley Act, the Federally Impacted Areas Act, the School Facilities Construction Act, the Elementary and Secondary Education Act of 1965, the Indian Education Act of 1972, the Indian Self-Determination and Education Assistance Act, the Tribally Controlled Community College Assistance Act of 1978, and the Education Amendments Act of 1978. In these major acts of Congress authorizing programs, including education programs, for Indians, the standard definition for eligibility used is that an Indian is a person who is an enrolled member of a federally recognized tribe. The definition in P.L. 93-638, the Indian Self Determination and Education Assistance Act, is that an Indian is , "a person who is a member of an Indian tribe." This same definition is used in the Indian Health Care Improvement Act of 1976. The definition used in the Indian Reorganization Act of 1934, a major comprehesive statute that radically affected the federal governments relationship with tribes and with Indians, provides the definition of "Indian" as, "all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendents of such members...residing within the present boundaries of any Indian reservation..."

Even the Solicitor of the Interior Department, in issuing an opinion on Indian preference in hiring at the BIA and the IHS, pursuant to the Tyndall and Mancari cases, stated that the BIA could not use quarter blood as a determining factor in defining Indian but would have to grant preference to all members of federally recognized tribes.

In fact, the definition of Indian is not a racial factor but is related to ones tribal affiliation. In discussing Indian preference, the Supreme Court noted:

> The preference is not directed towards a "racial" group consisting of "Indians;" instead, it applies only to members of "federally recongnized" tribes. This operates to exclude many individuals who are racially to be classified as "Indians." In this sense, the preference is political rather than racial in nature.

Morton v. Mancari, 417 U.S. 535, 553, n. 24 (1974).

For the BIA to discriminate against these children, based on racial factors, is clearly unconstitutional and will surely lead to law suits against the Department.

Not only are the attempts by the BIA to kick these kids out of our schools at odds with Congressional intent, but they totally contravene existing CFR regulations governing BIA education policies. The educational mission of the Bureau is to be carried out through specific policies stated in 25 CFR including:

> Sec. 32.4(a)(3) Ensure that Indian Tribes...fully exercise self-determination and control in planning, priority-setting, development, management, operation, staffing, and evaluation in all aspects of the education process.
>
> Sec. 32.4(g)(2) Encourage and defend the right of Tribes...to govern their own internal affairs in all matters relating to education.
>
> Sec. 32.4(i) Choice of school. Afford Indian...students the

> opportunity to attend local day schools and other schools of choice.
>
> Sec. 32.4(p) Education close to home. Provide day and residential educational services as close to an...Indian student's home as possible except where a student elects to attend a school elsewhere for specialized cirricular offerings or services.

Mr. Chairman, we live in the middle of the Smoky Mountains and the time it takes to drive is much longer per mile than on open highways. We have bad roads that get icy and dangerous at various times throughout the year and we have a lot of auto accidents. I really don't think it would be wise for us to have these children bused, for what may well be many hours a day off our reservation. In the landmark busing case of Swann v. Charlotte-Mecklenberg Board of Education, 403 U.S. 1 (1971), the Supreme Court approved a busing plan that required elementary students to travel "...not over 35 minutes at the most." Our children would be in buses for hours every day. Additionally, as can be seen in the attached document from Jackson County, they don't have any room for our kids once we did bus them there.

We also want to address what we speculate may be at the heart of the Interior Departments position on this matter and that is the subject of money. We suspect that the prevailing attitude is one that says "If we can get these less than quarter bloods out of school, we'll save money under the Indian School Equalization Formula." The BIA might be correct but we think OMB and the Congress had better take a look at the bigger picture because the forced placement of these children in public schools is going to cost the federal government MORE money than would the present system of allowing them to continue to attend the BIA school under ISEP. The attached document entitled Financial Factors empirically shows that it will cost $224,208 more for impact aid dollars to Swain and Jackson Counties than it would cost the Bureau to fund the less than quarter bloods under ISEP. So it may save the Interior Department some money but it will cost the Education Department, and the U.S. Treasury more. The quarter of a million dollars figure is for impact aid only. The Indians children transferred to the public schools would also be eligible for Title IV funding, for Johnson O'Malley funding and for Chapter 1 funding which average $125 per student, $150 per student and $674 per student, respectively. The 141 Indian students that we would have to send to Swain and Jackson Counties would result in federal obligations of $134,000 MORE for those three programs than is presently being expended. This does not even include the potential obligation the federal government would have under impact aid construction (815 funds) to the Swain and Jackson County Schools who would have to build more classrooms to house our children.

We do not even see how enactment of S.1621 will cost the BIA any more money . When the BIA submitted its proposed FY 86 Budget to Congress earlier this year there was no reduction requested under ISEP for the less than quarter bloods at Cherokee, or for other less than quarter blood Indians around the country, who were funded last year. The attached letter from Dr. Ross to Senator Melcher identifies 590 students around the country who are less than quarter blood attending BIA schools. If the Bureau planned to cut off funding for these students, they should have submitted a budget request that including a reduction of $1.2 million under ISEP for 590 students. These students are already budgeted for under the ISEP request, therefore the Congress would not have to appropriate any new funds to allow them to be funded.

What of the BIA arguement that the enactment of this bill will open the floodgates to lots of Indians seeking BIA education dollars? We think they are intentially creating a crisis where none exists. To start with, 80% of the tribes in the U.S. have quarter blood as a criteria for tribal membership. Therefore, we're only talking about 20% of the tribes. Of that 20%, some are Pueblos of New Mexico who do not have any blood quantum criteria for membership but who are certainly more than quarter blood and many of the others would be in Oklahoma and California where there are no BIA funded day schools anyway. The Indian students in those states attend public schools.

The Cherokee School was built by the BIA in 1976 as a community school and was supposed to be available for all residents of the reservation.
As a result, we have allowed non-Indians to attend our school but we have not sought ISEP funding for them, rather we have been magnanimous and allowed them to attend for free. We have been negotiating with the state of North Carolina and we hope that the passage of this bill will convince them to pay tuition for the non-Indians who are not covered as eligible under the bill. We believe that the Bureau should be responsible for all tribal members and for the children of school employees. If the regulations the BIA had proposed earlier this year were implemented, we and other tribes would potentially end up losing many of our dedicated non-Indian teachers and support personel who have school age children attending the tribal schools because they would not want to see their kids bused great distances off the reservation. This would even be more of a factor out west where local schools and living areas would be farther from the reservation.

Our school is fully accredited by the state of North Carolina and the Southern Association of Schools. If we lose the amount of funds (over $300,000) that we anticipate we would by cutting out the less than quarter bloods, we would have to lay off teachers and take other actions that could well result in our losing our accreditation. If that were to happen, we would have to close the school and that would really hurt our community.

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Mr. Chairman, that basically concludes all my factual arguements. I think I would just ask this Committee and more particularly ask the Interior Department, the BIA and the OMB, what kind of effect they think their policies are going to have on our children who get kicked out of the Cherokee School. These are Indian children we are talking about. They are born and raised on the Cherokee Indian Reservation. We have instilled in them that they should take pride in their heritage and they have studied and participated in cultural activities that are uniquely Indian. Their friends are all Indians and they have attended the BIA school all their lives, as have their parents and grandparents. Now the federal government is going to suddenly tell them that they are really not Indian, or just as bad, they are not Indian enough to continue attending their own school. We ask you, and our trustee, to think what kind of an effect this will have on these kids. I think it will be devastating. Many of them will feel ashamed and I am afraid many will drop out of school altogether. Frankly, I can not believe the lack of compassion being demonstrated by those who oppose this bill.

Our student count week is fast approaching and unless the Congress enacts S.1621 quickly, we may be prohibited from counting our less than quarter blood students for ISEP funding. They are already enrolled and have been in school for over a month now, as the BIA told us to go ahead and enroll them and let them begin their classes. When the ISEP allocations come out in November, are we supposed to then remove these kids from the school?

We and the other tribes affected by this issue will greatly appreciate prompt enactment of this bill and we pray the Department will realize the need for the legislation.

Thank you again Mr. Chairman and we thank your staff for the great help they have been to us.

I will be pleased to answer any questions you may have.

Appendix

1) Financial Factors demonstrating cost savings to federal government by allowing all Cherokee students to continue to attend Cherokee schools

2) Letter from Dr. Ross to Senator Melcher

3) Excerpt from BIA FY '86 Budget Justification/Request

4) Waiver from Acting AS/IA John Fritz

5) Letter to John Fritz from Jackson County Schools indicating lack of room for Indian students

Financial Factors

The proposed bill which would specifically authorize federal ISEP funds to be spent for Indian children with less than one quarter degree Indian blood will [redacted] result in the significant dollar savings in spite of claims to the contrary by the BIA. This savings realized for the situation in Cherokee, North Carolina, can be show by the following analysis.

In the 1984-85 school term, 141 Indian students under 1/4 degree and 41 non-Indian students were enrolled in the Cherokee School. The funding level for ISEP was $2,058.95 for each of these 141 students as a result of the BIA authorizing payment for the students in Cherokee based upon the lack of "adequate free public school facilities" being available. This exception was based upon specific language in 25 U.S.C. 297. This generated $290,311 to the Cherokee School for these less than quarter Indian children. The 41 non-Indian students were not funded with ISEP funds at the Cherokee School.

If these same children had not been funded through ISEP but had been forced to leave the Cherokee Indian Reservation and attend adjoining public schools, those schools would have received federal Impact Aid funds for all 182 children. Of these 141 Indian students 76 would have been assigned to Swain County schools and 65 would have been assigned to Jackson County schools.

In the 1984-85 school year, 19% of the Swain County school enrollment was made up of reservation Indian children or children of non-Indian residents of federal lands or children of parents who worked on the Cherokee Indian Reservation or other federal lands. With the addition of 76 more Indian students, the percentage would increase to 23%. With the further addition of 31 non-Indian students from Cherokee, the percentage would increase to 25%.

During the 1984-85 school year the Swain County schools were classified as an "A" category school district. For purposes of receiving federal Impact Aid funds, this meant that the district received 187% of the designated per pupil amount for "special education" students. For all other Indian students, regardless of their degree of Indian blood, and for all the non-Indian reservation students, the district would receive 30% of the designated funding amount. The Impact Aid formula is based upon nationwide expenditures per pupil and in 1984-85 Impact Aid funds were distributed on the basis of $1,430.50 per pupil.[1]

In 1984-85 there were 24 special education students and 229 Indian students in the Swain County schools, for purposes of Impact Aid. Based on this formula, funding for special education children was $64,200 while funding for the Indian children was $98,275, for a total of $162,678.[2]

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[1] The data on which this formula is based runs two years behind current actual state expenditures because of the time necessary to compile the information. Since inflation alone raises the level of state educational funding, the per pupil level of the Impact Aid funding formula is expected to increase during the next several years.

However, had the additional Indian and non-Indian children attended the Swain County schools, the district would have been reclassified from an "A" district to a "Super A" district. A "Super A" district is one in which 20% or more of its students reside on federal lands. In such a district, the special education students are funded at the same level, but the other children, including non-Indians, are funded at 100% and the district is awarded an additional 25% for every student living on Indian lands. Under those circumstances the 24 special education students would still have been funded at $64,200, assuming no additional special education students, but the other students would be funded at 125% of the national figure rather than 30%. Thus the 229 Indian students together with the 76 additional Indian students and 31 additional non-Indian students would have generated ($600,811). This would constitute an increase in funds to the Swain County district in the amount of ($502,333). Stated another way, this would have constituted an increase of ($212,022) over the total ISEP funds paid to the Cherokee School in 1984-85.

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[2] The total figure of $162,678 is the actual amount received by Swain County for 1984-85. The two calculated figures in this report do not add up to this total. The variance between the two figures and the actual total is caused by the fact that the actual 1984-85 funding was based upon "average daily attendance" numbers which included fractions rather than whole numbers. Only the dollar total and the round number of students in the two categories were available to the author at the time this report was drafted.

Furthermore, additional funds would have also been paid to the Jackson County school district for both the 65 less than 1/4 blood Indian children and the 10 non-Indian children. Although the classification of Jackson County would not change, even at the "A" classification funding level this would result in an additional ($32,186) for Jackson County. Thus the total increased expenditure of federal funds for both Jackson and Swain counties would have been ($244,208).

When personnel from OIEP in the BIA assert that the funding of children with ISEP funds will result in substantial fiscal savings, they are clearly not stating all the facts and are actually misrepresenting the circumstances surrounding the delimma that faces the Cherokee Indian School. In actuality, by authorizing the expenditure of ISEP funds for all children who are enrolled members of the Tribe, without regard to their blood quantum, as is the case for Impact Aid funds, the federal government would realize a SAVINGS of $224,208.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:
Indian Education
ACCO #1801

MAY 13 1985

Honorable John Melcher
United States Senate
Washington, D.C. 20510

Dear Senator Melcher:

Thank you for your April 30, 1985, letter to Deputy Assistant Secretary, John Fritz, concerning non-eligible students attending schools funded by the Bureau of Indian Affairs.

When our final counts were tallied, we, in fact, totalled 922 such students, 590 of whom were Indians of less than 1/4 degree blood quantum; 298 were non-Indians and 34 were over or under age.

The enclosed list shows the breakdown by our area offices and by individual school, including the States in which the schools are located. I hope this information is helpful to you.

Sincerely,

Dr. Kenneth G. Ross
Acting Director, Office of
Indian Education Programs

Enclosure

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ABERDEEN

Theodore Jamerson, N.D.	2
Four Winds, N.D.	27
Mandaree, N.D.	12
Twin Buttes, N.D.	3
White Shield, N.D.	3
Turtle Mountain, N.D.	75
Standing Rock, N.D.	13
Ojibwa, N.D.	7
Little Wound, S.D.	22
Manderson, S.D	3
Loneman, S.D.	2
Pine Ridge, S.D.	24
Porcupine, S.D.	1
Crazy Horse, S.D.	6
Fort Thompson, S.D.	4
Lower Brule, S.D.	50
Cheyenne Eagle Butte, S.D.	188
Bullhead, S.D.	3
Little Eagle, S.D.	1
Red Scaffold, S.D.	1
White Horse, S.D.	3
Swiftbird, S.D.	1
Marty, S.D.	5
St. Francis, S.D.	7
TOTAL	463

BILLINGS

Labre, MT	39
St. Stephens, WY	20
TOTAL	59

PHOENIX

San Simon, AZ	2
Santa Rosa, AZ	3
TOTAL	5

EASTERN

Choctaw Central, MS	1
Cherokee, N.C.	189
TOTAL	190

MINNEAPOLIS

Nah-Ah-Shing, MN	12
Bug-O-Nay-Ge Shig, MN	2
Circle of Life, MN	2
Fond du Lac, MN	8
Lac Courte Oreilles, WI	39
TOTAL	63

ALBUQUERQUE

Jicarilla, N.M.	1
Pine Hill, N.M.	17
TOTAL	18

PORTLAND

Puyallup, WA	11
Wah-He-Lute, WA	3
Paschal Sherman, WA	9
Two Eagle River, MT	26
TOTAL	49

NAVAJO

Wingate, N.M.	21
Borrego Pass, N.M.	2
Jones Ranch, N.M.	2
Pueblo Pintado, N.M.	1
Dennehotso, AZ	1
Shonto, AZ	16
Rocky Ridge, AZ	5
Flagstaff, AZ	1
Nazlini, AZ	3
Many Farms, AZ	7
Rock Point, AZ	1
Rough Rock, AZ	4
Tuba City, AZ	2
Dilcon, AZ	2
Greasewood, AZ	7
TOTAL	75

GRAND TOTAL	922

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUDGET JUSTIFICATIONS F.Y. 1986

BUREAU OF INDIAN AFFAIRS

SUMMARY OF FISCAL YEAR 1985 BUREAU SCHOOL SYSTEM FUNDING

TYPE OF SCHOOLS	ADM	Ins. WSU	Res. WSU	Total Formula a/ Funds
Bureau Operated Day Schools (62)	10,563	13,486	17	$ 30,733,585
Elementary (58)	(9,085)	(11,644)	(17)	(26,495,925)
Elementary/Secondary (4)	(1,478)	(1,842)	(--)	(4,237,660)
On-Reservation Boarding Schools (46)	17,004	21,846	12,986	75,020,585
Elementary (39)	(12,797)	(16,193)	(9,773)	(56,030,205)
Secondary (3)	(2,098)	(2,943)	(2,527)	(11,591,530)
Elementary/Secondary (4)	(2,109)	(2,710)	(686)	(7,398,850)
Off-Reservation Boarding School (7)	3,105	4,826	3,903	18,937,750
Elementary (1)	(294)	(362)	(367)	(1,604,570)
Secondary (5)	(2,440)	(3,877)	(3,084)	(15,154,570)
Elementary/Secondary (1)	(371)	(587)	(452)	(2,178,610)
Dormitories (15)	1,800	400	2,275	5,962,865
Secondary (5)	(692)	(66)	(865)	(2,093,620)
Elementary/Secondary (10)	(1,108)	(334)	(1,410)	(3,869,245)
Contracted Schools (63)	9,519	12,782	1,835	33,347,920
Elementary (30)	(2,766)	(3,817)	(333)	(9,187,415)
Secondary (7)	(952)	(1,332)	(232)	(3,861,495)
Elementary/Secondary (26)	(5,801)	(7,633)	(1,270)	(20,299,010)
Grand Total (193) c/	41,991	53,340 b/	21,016 b/	$164,002,705

a/ Initial FY 1985 allotment to schools. Balance of funds will be distributed later in the year.

b/ 1,665 WSU's for Exceptional Child Residential and Intensive Residential Guidance are reported on this chart as Instructional WSU's rather than boarding WSU's.

c/ Includes 10 Alaska day schools and one dormitory which will be transferred or closed by FY 1986.

The major portion of Bureau school operating funds for instruction, boarding, and dormitory costs is distributed directly to Bureau and contract schools by a formula using a weighted student funding approach called the Indian School Equalization Formula (ISEF). Monies used to fund other educational support and administrative school services are provided apart from the ISEF. An explanation of the FY 1986 ISEF, with estimates by program level, follows:

Summary of Weighted Student Units by Program

	Actual FY 1985		Estimated FY 1986	
	ADM	WSUs	ADM	WSUs
I. Instructional Programs				
A. Basic b/	40,191 a/	45,295	39,829 a/	45,276
B. Exceptional Child	6,027	3,545	5,932	3,486
C. Intense Bilingual	9,068	1,814	8,633	1,748
Total Instructional WSUs		50,654		50,510
II. Residential Programs				
A. Boarding Schools				
1. Basic	14,620	18,741	14,620	18,741
2. Exceptional Child Residential	336	160	336	160
3. Intensive Residential Guidance	2,370	1,185	2,370	1,185
B. Dormitories b/				
1. Basic	1,800 a/	2,275	1,652 a/	2,088
2. Intensive Residential Guidance	620	310	620	310
3. Exceptional Child Residential	20	10	20	10
Total Residential WSUs		22,681		22,494
Total ISEF Program WSUs		73,335		73,004
Small School Adjustment		797		704
Alaska Adjustment		224		-0-
GRAND TOTAL		74,356		73,708

a/ The "Basic" student ADM numbers for Instructional and Dormitories are added together to obtain the total unduplicated, unweighted ADM for each year (41,991 in FY 1985 and 41,481 for FY 1986).

b/ The ADM and WSU for Magdalena Dormitory were transferred from Dormitories to Basic Instructional Programs since we do not know which alternative the students will select in FY 1986.

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Under the Indian School Equalization Formula, different educational activities conducted by Bureau-operated and contract schools, such as elementary and secondary education, bilingual education, residential programs, and programs for different types of handicapped students, are assigned weights (using a base amount of 1.00) which reflect the relative costs associated with the various activities. The relative weight factors are determined on the basis of the best practice and experience of state school systems which have developed equalization funding formulae. The number of students a school has participating in the various educational activities is identified, totalled by activity, and multiplied by the weight factor for each activity to arrive at the number of weighted student units (WSU) at each school. The dollar value of a WSU is determined by the division of the total number of all schools' WSUs into the total available funding. The WSU dollar value is multiplied by the number of each school's WSUs to arrive at each school's amount of funding.

Calculating the Base Student Value - The total WSU figure includes all of the WSU's generated directly by instructional and residential programs, in addition to the Small School Adjustment and the Alaska School Cost Adjustment. The Small School Adjustment is used for 69 schools with less than 100 students, since it costs more per capita to operate very small schools and dormitories.

The following represent the estimated "total" WSUs for FY 1985 and FY 1986.

	FY 1985 WSUs	FY 1986 WSUs
Program Totals	73,335	73,004
Small School Adjustment	797	704
Alaska Adjustment	224	-0-
Total	74,356	73,708

The FY 1985 amount available for distribution to schools for instructional programs of $152,179,000 divided by the total estimated WSUs (74,356) produces a base student value for FY 1985 of $2,047. The FY 1986 estimate for ISEF of $154,370,000 divided by the total estimated WSUs (73,708) produces a base student value for FY 1986 of $2,094.

School closures or program reductions scheduled for FY 1986 are the Alaska day school transfers and the closure of the Magdalena Dormitory on the assumption that the Alamo School construction will be completed. However, no Education savings are anticipated for closing Magdalena Dormitory, because some students are expected to leave Magdalena to attend another Bureau boarding school.

In FY 1985 the Bureau funds ten day schools for Alaska Natives. Public Law 98-63 states that the Bureau of Indian Affairs will not fund any schools in Alaska after June 30, 1985, and therefore, will have transferred the remaining ten (10) day schools to the State of Alaska control by that date. This action is consistent with the commitment the Bureau has undertaken in recent years to align its educational goals in Alaska to the State system. Since Alaska gained statehood, some ninety (90) Bureau owned and operated schools have been transferred from Bureau operation to the State of Alaska operation.

Increase from FY 1986 Base:		(Dollars in thousands)		
		1986 Base	1986 Estimate	Difference
Indian School Equalization Program	$	153,868	156,145	+2,277
	(FTE)	(4,305)	(4,272)	(-33)

Indian School Equalization Formula

The estimated program change resulting from the transfer of the remaining ten Alaska day schools at the end of the 1984-85 school year, calculated by using the FY 1984 actual WSUs, is an estimated savings of $1,879,000. There is no anticipated program change resulting from the closure of Magdalena Dormitory. There are several options which students from Magdalena may consider: (1) leave Magdalena and attend the Alamo day school, (2) relocate to another Bureau peripheral dormitory and attend the local public school, or (3) relocate to another Bureau boarding school. The budgetary impact cannot be determined until student placement plans have been developed. Offsetting the above decrease for the Alaska schools are the following increases: $+565,000 for four program expansions on Navajo (Ojo Encino, Canoncito, Pueblo Pintado and Chi Chil Tah); $+473,000 has been added back to the ISEF program from the amount of FY 1985 funding ($1,200,000) for school board expenses; and $+3,118,000 for general enhancement of the funds available to the ISEF program. A full explanation of the school board expense adjustment is provided in the "School Boards" base program discussion (item D).

The following table outlines the estimated FY 1986 ISEP planned program changes:

INDIAN SCHOOL EQUALIZATION FORMULA
PLANNED PROGRAM ADJUSTMENTS FOR FY 1986

Includes Estimated ADM's, WSUs, and Funding

Adjustments:	ADM	WSU	Estimated Cost
Alaska day school transfers a/	-660	-918	$-1,879,000
Program expansions	+150	+270	+565,000
WSU enhancement	---	---	+3,118,000
Restoration of school board expenses	---	---	+473,000
Total, adjustments	-510	-648	$+2,277,000

a/ Ten Alaska day schools operated by the Bureau in FY 1985 will be transferred by June 30, 1985.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

SEP 11 1984

Mr. Robert S. Youngdeer
Principal Chief, Eastern Band
of Cherokee Indians
Cherokee, North Carolina 28719

re: Waiver for Educational Funding for Enrolled Members Less than Quarter Degree

Dear Chief Youngdeer:

Pursuant to our meeting of June 28, 1984, and my commitment to you on that date, I would like for you to know that it is my intention to issue a waiver for the Eastern Band of Cherokee Indians unless prohibited by Congress from the regulations which prohibits funding for tribally enrolled members who are less than quarter degree Indian blood.

Title 25 U.S.C. 297 prohibits funding of Indians less than quarter degree Indian blood when there are adequate public schools available. In reviewing the population geographic and physical situation at Cherokee and in the neighboring counties, I do not believe that adequate public schools are available to the Eastern Band of Cherokee Indians at this time. I believe it would be counter productive to transport students three to four hours daily to public schools which are overcrowded and which have indicated to us in writing that they will not and cannot accept additional students at this time.

This waiver is for FY 1985 and is based on my understanding that progress is being made pursuant to meetings between the tribe and the State of North Carolina to resolve this issue permanently.

I want to emphasize that it is extremely important that the leadership of the tribe continue to meet with state officials to seek and implement a permanent solution. I would expect that from what we have discussed that an agreement can be reached with the State within the next few years; from that point you will know that any future waivers should not be granted.

Sincerely,

Deputy Assistant Secretary -
Indian Affairs (Operations)

OGERS SHELTON, CHAIRMAN
ECIL C. WARD, VICE-CHAIRMAN
RNOLD BUCHANAN
IACK C. LEWIS
UM TURPENTINE

EARL F. HOOPER, SUPERINTENDENT

AREA CODE [illegible]
PHONE [illegible]
P. O. BOX [illegible]

JACKSON COUNTY PUBLIC SCHOOLS
SYLVA, NORTH CAROLINA 28779

July 25, 1984

Mr. John W. Fritz
Deputy Assistant Secretary
Operations/Indian Affairs
U.S. Department of the Interior
C & 18th St., N.W.
Washington, DC 20240

Dear Mr. Fritz:

This correspondence is in regards to the impact that would occur to our school system if drastic changes were to occur in the funding of the Indian School on the Cherokee Indian Reservation.

At the present time our newest school, built in 1980 and located near the Cherokee Indian Reservation, is overloaded. We find there is a need for four additional classrooms. In all schools, space intended for use other than for classrooms is being used for classroom purposes.

It would be impossible for the Jackson County School System to absorb an impact that may be precipitated by a drastic change in funding, re-classification of students according to Indian blood, or other factors that may impact on our present school population.

I would highly suggest that if it is the intent of the Federal government to remove itself from direct educational activities, that pre-planning be implemented immediately. These plans should include target dates, funding for construction, operation, and other factors involved in the educational process.

If additional information is needed, we shall be happy to provide it.

Very truly yours,

Earl F. Hooper
Earl F. Hooper
Superintendent

EFH:bj

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Mr. Taylor. Chief, I think that was very comprehensive testimony and really an excellent presentation.

Mr. Youngdeer. Thank you.

Mr. Taylor. The problems in the North Carolina Cherokee school are certainly one of the very important factors that is causing this legislation to be before us today. It certainly is not limited to that school, but we are well aware of your problem down there.

I don't have any particular question myself. I was going to ask, Ms. Henry, whether you had any comments you would like to add, or Mr. Waters.

Ms. Henry. I would like to just say that I disagree with Ms. Garrett's statement she made about expanding, that if this bill passed it would expand the service areas of the school. I disagree with her because a lot of the Indian Health Service people and the BIA people don't have children near our schools anyway, so that wouldn't have a big impact on our school.

Mr. Taylor. I understand that under past legislation, in fact, Ms. Garrett referred to it at the beginning of her testimony, non-Indian children are allowed to attend Bureau of Indian Affairs schools—I assume, if they are not overcrowded—and under the proposed regulations that would continue to be the case only it would require that they pay tuition. Is that your understanding of this proposed regulation?

Mr. Waters. That is basically correct, Mr. Chairman, but additionally, the proposed regulations—there are some interesting inconsistencies in Ms. Garrett's testimony—the proposed regulations that they sent out in May, whereas right now under the way things present are, these children are attending the Cherokee school but not getting ISEP funds allotted to them. The proposed regulations would prohibit them from even attending regardless of whether they were funded or not which is one of the reasons why the regulations are so outrageous.

Mr. Taylor. The other question I had, and it is more an observation and I am looking for a confirmation, is that the ISEP formula currently is somewhere in the area of $2,000 per student?

Mr. Waters. $2,048, that is correct.

Mr. Taylor. And, presumably, that formula would be the measure of what the tuition requirement would be, then. Would that be correct?

Mr. Waters. Yes. Mr. Chairman, one of the points that we wanted to make is that there is no cost savings to the Federal Government on this. The Interior Department is possibly going to save—what are we talking about? 590 kids in the country that are less than quarter blood. 140 of them are at Cherokee who were funded under ISEP anyway last year. The difference is probably $900,000 nationwide unless these thousands of kids suddenly start enrolling in BIA schools which is an absurd theory.

The testimony of the administration states that there is a possibility of Army Corps of Engineers, U.S. Forest Service, all these white kids that are enrolled in public schools are suddenly going to decide, gee, I have always wanted to attend an Indian school, and they are going to have this enrollment. It is preposterous. It is scare tactic that is being used by the Department.

I thought the questions that were being posed by the staff, where is the proof of this mass of people that are suddenly going to dilute the school's budget—it is ridiculous. There is no proof that that would happen at all, certainly not with children of all these Federal agencies.

Mr. TAYLOR. Thank you. In fact, I think your testimony clearly indicates that it is going to cost the Federal Government money if we go forward with the proposed regulations.

Mr. WATERS. Absolutely. The funding under impact aid that those kids would get if they were forced to go to the public schools will, in fact, be more of a strain on the U.S. Treasury than would allowing ISEP funding for the less than quarter-bloods at Cherokee presently. Maybe the Interior Department sees a cost savings here, but OMB should look at the bigger picture.

Ms. BOYLAN. Which brings up the question I have, and that is, if you recall the dialog that Ms. Garrett and I had about impact aid money, do students at Cherokee now receive impact aid money as a passthrough from the local school district?

Mr. YOUNGDEER. They do not.

Ms. BOYLAN. Thank you.

Mr. WATERS. One other comment on that is that we had heard that there were allegations at the Interior Department that the Swain and Jackson county schools were counting for impact aid nonattending Indian kids, mysterious children that were allegedly being counted but not really in attendance at Swain or Jackson schools, and that was one of the arguments that was being used within the Department that they are getting ISEP money and impact at the Swain and Jackson counties. Swain and Jackson counties have never applied for impact aid moneys for anybody other than an Indian who was in attendance. There are no ghost Indians there despite statements to the contrary.

Mr. TAYLOR. Mr. Mahsetky.

Mr. MAHSETKY. I have one question, and that is dealing with—I am not sure of the exact number of students who would be affected if these regs were implemented and this law didn't pass. Could you tell us for the record again how many students would be potentially affected at Cherokee?

Mr. YOUNGDEER. 141.

Mr. MAHSETKY. And that is 140 out of how many students, total students?

Mr. YOUNGDEER. Approximately 900.

Mr. MAHSETKY. 900 students.

Mr. YOUNGDEER. Yes.

Mr. MAHSETKY. These 140 students, are they currently receiving ISEP funds? They are, aren't they? Aren't you receiving ISEP funds for at least a portion of the 140 students?

Mr. WATERS. Yes. The tribe has been receiving ISEP funds for the less than quarter-bloods which brings me to another misstatement by the previous witness here. There was a statement made that in 1985, the Bureau's budget—or 1986—the Bureau's budget was decreased to reflect the fact that they were no longer going to service these less than quarter-bloods. We have appendixed to our testimony those sections of the BIA budget submission to Congress for fiscal year 1986. There is no reduction in there whatsoever indicated for less than quarter-bloods. It is not like they said $2,048 times 141 kids or whatever the total might be even nationally and said we therefore reduce our budget by that much. Nor will you find any reduction consistent with that in any previous year's request to the Congress.

So, that is a false statement. There is funding in the appropriations bill for fiscal year 1986, as submitted to Congress, that would sufficiently, at the very least, fund the Cherokee students, and it would not require an additional appropriation by the Congress.

Mr. MAHSETKY. Then, that leads me to the next question, and that is that on September 9, the Bureau published their final rule on academic and dormitory standards. My question is, has the Cherokee school board analyzed the possible potential impact on the new dormitory and academic standards if they were to go forward and disqualify these 140 students?

Ms. HENRY. No, we haven't. We haven't discussed that at any length. Of course, we don't have a dormitory.

Mr. WATERS. It is a day school.

Ms. HENRY. It is a day school.

Mr. MAHSETKY. Right, but the academic standards would apply, and I am curious as to what that potential effect might be if they were to go forward and not fund for ISEP purposes the 140 students.

Mr. WATERS. We will have to get back to you on that one.

Mr. MAHSETKY. OK. I would be interested in any potential impact.

Mr. TAYLOR. I don't believe we have any further questions for you. Again, thank you very much for a very detailed and comprehensive statement.

Our next witness is Carol Barbero, an attorney with Hobbs, Straus, Dean & Wilder law firm here in Washington, DC, representing the Oglala Sioux Tribe of South Dakota, the Miccosukee Tribe of Florida, Rock Point Community School Board of the Navajo Nation, Chinle, AZ. Ms. Barbero.

STATEMENT OF CAROL L. BARBERO, ATTORNEY, HOBBS, STRAUS, DEAN & WILDER, WASHINGTON, DC

Ms. BARBERO. Thank you, Mr. Chairman.

We appreciate the time the committee has given to hear our testimony on this, particularly in view of the fact that we represent two tribes and a contract school board of the Navajo Nation.

Rather than read my testimony at this point, I would just like to summarize it for you and answer any questions that the staff may have.

Mr. TAYLOR. Your prepared statement will be made a part of the record at this point.

Ms. BARBERO. Thank you. Also, Mr. Chairman, I wondered if I might ask if the record would also reprint the comments we filed with the Bureau of Indian Affairs on the subject regulations a few months ago on behalf of the Rock Point Community School Board, because they deal in greater detail with what we consider the major legal issues that those regulations raise.

Mr. TAYLOR. Are they attached to your testimony?

Ms. BARBERO. I have given copies to counsel.

Mr. TAYLOR. All right. We will make those a part of the record.

Ms. BARBERO. Thank you.

Mr. Chairman, I think it is apparent from the previous testimony and from the written comments that were submitted to the Bureau that the subject regulations have several flaws. I think primarily among them is that they clearly violate the due process clause of the fifth amendment and fly right in the face of *Bolling* v. *Sharp*, the companion case to *Brown* v. *the Board of Education* from 1954 where the Supreme Court said, quite expressly, segregation according to race in federally funded education facilities violates the fifth amendment and is not to be tolerated, and that is exactly what the Bureau proposed to do here.

Mr. TAYLOR. I might say that back home, we knew that case as *Brown* v. *Topeka Board*.

Ms. BARBERO. If it weren't enough, sir, that these regulations violate the fifth amendment, they also violate the Bureau's own guidelines for school construction and the tolerable distance that a child should be subjected to a bus ride before reaching an Indian school. The Bureau's construction guidelines say that a one hour bus ride is tolerable. Here, the Bureau is saying that those children who are not of Indian descent and those who have less than one-quarter Indian blood can be bused for 1½ hours with no rationale or even any explanation whatsoever as to why the two groups of students should be treated differently or should be subjected to any different length of bus ride.

On the practical side, most of our schools are concerned about the adverse effect this will have on teacher and other employee recruitment. Non-Indian parents who might otherwise be attracted to teach at an Indian school obviously are going to have second thoughts if they can't send their children to the local school or have to send them on an hour and a half bus ride before they can arrive at a public school where they can attend school with children of their own race purely because they are not Indian students.

I think the most distressing social impact these regulations present is on those students who are less than one-quarter blood, as Ms. Boylan was discussing with Ms. Garrett earlier. These students are members of their community, members of their tribe, and both the community and the tribe and they themselves consider them to be Indian, but they are not Indian enough to get into their Indian school. When they go to their local public school, they miraculously become Indians for Federal funding purposes, an anomaly that makes no sense whatsoever.

Having listened to the testimony this morning, I really seriously question what it is that the Bureau of Indian Affairs considers to be its mission with regard to the education of Indian students. It seems to me, when reduced to its lowest common denominator, the Bureau's testimony was geared to its budgetary impact which, I believe, was overstated, overestimated, and probably not even estimable at all by the Department's witness. And if budgetary impact is the sole criterion, what is the education mission of the Bureau of Indian Affairs then?

I thought it was to educate Indian children, particularly members of tribes for whom schools are established on Indian reservations.

That about summarizes the position that my clients have on this issue. If there are any questions, I will be happy to respond.

[Ms. Barbero's prepared statement, on behalf of the Rock Point School Board of the Navajo Reservation in Arizona, the Oglala Sioux Tribe of the Pine Ridge Reservation, SD, and the Miccosukee Tribe of Florida, and the aforementioned Rock Point Community School Board's comments on the subject regulations, follow. Testimony resumes on p. ——.]

STATEMENT OF CAROL L. BARBERO

ON BEHALF OF

THE ROCK POINT SCHOOL BOARD
OF THE NAVAJO NATION

THE OGLALA SIOUX TRIBE

AND

THE MICCOSUKEE TRIBE

ON S. 1621

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

September 18, 1985

Mr. Chairman and Members of the Committee:

My name is Carol L. Barbero. I am an attorney with the Washington, D.C. law firm of Hobbs, Straus, Dean & Wilder, and appear here today on behalf of the Rock Point School Board of the Navajo Reservation in Arizona; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; and the Miccosukee Tribe of Florida.

We support S. 1621. It is an immensely reasonable and proper solution to a problem that would otherwise have to be resolved in federal court. The problem was created when the Bureau of Indian Affairs issued proposed regulations that would expel certain children from BIA-funded schools solely on account of their race, and force them to travel up to 1-1/2 hours by bus to attend a public school.[1] Any non-Indian child and any Indian child with less than 1/4 Indian blood was to be subject to this draconian policy, even if such a child lives across the street from a Bureau-funded school; even if his/her parent teaches at that school; or even if the child is a member of the Tribe for whose benefit the school was established.

It is obvious to us that the proposed regulations could not withstand judicial scrutiny: they clearly violate the Fifth Amendment's due process guaranties by attempting to re-establish racial segregation in federally-funded schools, a practice condemned by the Supreme Court more than 30 years ago. Bolling v. Sharpe, 347 U.S. 497 (1954) (Racial segregation in the federally funded District of Columbia schools is unconstitutional).

In addition, we do not believe the Bureau possesses the statutory authority to expel the affected children from Bureau and contract schools. The authorities they cite are intended to permit non-Indians to attend Bureau schools pursuant to reasonable regulation, not to prohibit such attendance under the unreasonable condition that a public school can be found within 50 miles of the child's home.

1/ Conditions Under Which Non-Eligible Students May Attend Bureau of Indian Affairs-Funded Schools, 50 Fed. Reg. 19701 (May 10, 1985).

Furthermore, the Bureau has elsewhere established a policy that Indian children should not have to travel more than one hour by bus to attend school.[2] Yet in its proposed regulations, the Bureau, without acknowledging its existing policy, increases the acceptable bus ride duration by 50 percent for the children who, because of their race, would be declared ineligible for continued enrollment in a Bureau-funded school.

Finally, the impact on the Indian children with less than 1/4 Indian blood cannot be overlooked. These children were raised in the Indian community and are considered -- by themselves, by their neighbors and by their tribe -- to be part of that community. Yet the Bureau's proposed regulations would deny them the right to attend the neighborhood school because they are not "Indian enough." Instead, the BIA seeks to send them long distances to attend a non-Indian public school, an environment that would likely be strange, foreign and frightening to such a youngster. Ironically, this school would classify the child as "Indian" -- a status he/she could not obtain in his/her own BIA school -- and would count that student for Indian education federal funding purposes. This presumes, of course, that the youngster consents to make the daily long trip to the unfamiliar school. Many children faced with such a tough social situation may elect to drop out of school altogether. This harsh and counter-productive effect the proposed regulations would have on 590 youngsters scattered around Indian reservations throughout the country should not be tolerated.

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[2] Bureau of Indian Affairs, "School Construction Application Procedure," (March 13, 1980).

The solution presented by S. 1621 is proper for several reasons. First, it would make tribal membership -- rather than degree of Indian blood -- the primary criterion for determining the eligibility of Indian children to attend their neighborhood Bureau-funded schools and to be included in the student population on which funding is calculated. This aspect of the legislation would serve to reaffirm the principle that tribes, not the BIA, solely possess the right to determine who shall be tribal members and enjoy the privileges thereof.

Second, the bill would remove a sizeable barrier to school employee recruitment that was posed by the proposed regulations. Indian schools in remote areas already experience difficulties in attracting and retaining highly qualified personnel; the task would become all the more difficult if non-Indian employees could not send their children to the local school. Everyone benefits from the attendance of these children at the Indian school: the non-Indian children who are spared harmful forced separation from their community and an irrationally long bus ride; their Indian classmates/playmates who enjoy the social and cultural benefits of associations with children and teachers from different backgrounds; the Indian school which has a better opportunity to recruit qualified non-Indian employees; and the community as a whole which benefits from both the diversity within its population and the stability of its school-aged children.

Mr. Chairman, we can see no rational reason why anyone would oppose this bill. Surely the benefits it offers to Indian education are as obvious as are the harms presented by the BIA's proposed rules. We urge the Committee to favorably recommend this measure and work for its speedy passage to assure that the educational program of the affected students is not interrupted during the newly-commenced academic year.

When S. 1621 is marked up by the Committee, we ask that one technical amendment be made in the paragraph dealing with contract schools. In paragraph (4) of the proposed new subsection (f) of 25 U.S.C. § 2008, we suggest that the words "or other appropriate school governing body" be inserted immediately after the term "governing school board". While a school board is the governing body of many contract schools, this is not the case with all schools. For example, the Miccosukee School is operated under contract with the Miccosukee Business Council and it is the Council which operates the school and establishes school policies. We ask that the language of the proposed § 2008(f)(4) be changed to reflect this fact.

Thank you, Mr. Chairman.

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June 10, 1985

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Dr. Kenneth G. Ross
Acting Director
Office of Indian Education Programs
Bureau of Indian Affairs
U.S. Department of the Interior
Room 3512
Washington, D.C. 20245

Re: Comments on Proposed
Amendment to 25 C.F.R. Part 31

Dear Dr. Ross:

On behalf of the Rock Point School Board of the Navajo Reservation, Arizona, we hereby submit comments in response to the proposed amendment to 25 C.F.R. Part 31 -- Conditions Under Which Non-Eligible Students May Attend Bureau of Indian Affairs-Funded Schools -- as noticed in 50 Fed. Reg. 19701. For the reasons outlined below, the proposed regulations are unconstitutional; represent an excess of statutory authority; would adversely impact operation of BIA and contract schools; and contravene existing BIA policy. Thus, the proposed regulations should be withdrawn.

1. The Proposed Regulations are Unconstitutional and Exceed Statutory Authority

The proposed regulations would establish as a federal government policy the segregation of elementary and secondary school students according to race. They would deny access to a neighborhood Indian school to any non-Indian child and to any child with less than one-quarter Indian blood if any other school is located within 50 miles of such child's home and can be reached by a one and one-half hour bus ride. While the busing of students has, in some instances, been sanctioned to achieve racial integration in schools, the Bureau of Indian

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Affairs, through the proposed regulations, seeks to create a perverse twist to that practice: forced busing to achieve racial segregation.

More than thirty years ago, the United States Supreme Court declared the policy of racial segregation in federally-funded schools to be a denial of the due process of law guaranteed by the Fifth Amendment to the Constitution. Bolling v. Sharpe, 347 U.S. 497 (1954). It declared that "[s]egregation in public education is not reasonably related to any proper governmental objective," and constitutes an arbitrary deprivation of the liberty guaranteed to the children who are subjected to such a policy. Id. at 500. As recently as 1983, the Supreme Court reiterated the federal government's opposition to segregation in education: "[R]acial discrimination in education violates a most fundamental national public policy, as well as rights of individuals." Bob Jones University v. United States, 461 U.S. 574, 593 (1983).

As if it were in total ignorance of this policy, the BIA, by an excessive and erroneous interpretation of three statutes, seeks to put the federal government's sanction on the maintenance of separate schools for children of different races. Sections 288 and 289 of Title 25 allow "white" (presumably, non-Indian) children to attend BIA day and boarding schools pursuant to rules established by the Commissioner of Indian Affairs. Tuition payments must be assessed for attendance at boarding schools (§ 289), but are discretionary for attendance at day schools (§ 288). The plain meaning of both statutes is to allow non-Indians to attend Indian schools pursuant to reasonable regulations.

The BIA has apparently read into these two laws the 25 U.S.C. § 297 proscription on the use of appropriated funds for the education of Indian children with less than one-quarter Indian blood where adequate free schools are available.1/ The

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1/ We seriously question whether § 297, enacted as part of a 1918 appropriations act, has any continuing validity. If subjected to court review, this section would most likely be found to have been repealed by implication through subsequent laws, including Indian education laws authorizing the expenditure of appropriated federal funds, which define "Indian" in tribal/political terms rather than blood-based racial terms. See 25 U.S.C. § 479; 20 U.S.C. § 1221h(a); 25 U.S.C. § 450b; 20 U.S.C. § 241bb-1.

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result is a total denial of access to a BIA-funded school for (1) non-Indians and (2) Indians with less than requisite blood quantum, if such children can be bused to a school located anywhere within a 50-mile radius of their homes.

We find the Bureau's interpretation of these statutes, as reflected in the proposed regulations, to exceed the limitations of the laws. First, Sections 288 and 289 grant non-Indians access to Indian schools; the proposed regulations deny them such access if there is another school within 50 miles. Second, Section 297 does not deny Indian children of less than one-quarter Indian blood access to BIA-funded schools; it merely prohibits the use of federal funds for their education if a free school is available. By contrast, the regulations would totally deny them access to BIA-supported schools if a free school is available.

The error of the excessive statutory interpretation is exacerbated by BIA's failure to recognize the federal government's adoption of a strict policy abhorring segregation in education in the decades that followed enactment of Sections 288, 289 and 297.[2/] Even if the three statutes can, on their face, fairly be interpreted in the manner set out in the proposed regulations (a premise we do not accept), the intervening anti-segregation policy is nonetheless violated. This fact alone dictates that the regulations be withdrawn.

The effect of the racial separation sought to be sanctioned in the proposed regulations is just as harmful to the students subject to them as was the exclusion of Negro students from white schools in their neighborhoods, a practice banned by the Supreme Court over 30 years ago. As the Supreme Court observed, separation of children

> from others of similar age and qualification solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.

Brown v. Board of Education, 347 U.S. 483, 494 (1954). When such segregation is sanctioned by law, the deprivation suffered is intensified. Id.

[2/] Section 288 was enacted March 1, 1907, 34 Stat. 1018; Section 289 was enacted March 3, 1909, 35 Stat. 783; Section 297 was enacted May 25, 1918, 40 Stat. 564.

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An example of the effect application of the proposed regulations will have is edifying. There are four white students residing in the Rock Point, Arizona community who would be expelled from the Rock Point School if the proposed regulations become effective. These students, all children of School employees, are currently enrolled in first, second, seventh and eighth grades. Since the nearest public school is approximately 40 miles away and can be reached after a one and one-half hour one-way bus ride, these children would be precluded from continuing their education with the 400 other neighborhood children at the Rock Point Community School. Even if their parents could pay tuition, the regulations would nonetheless prohibit these white children from attending Rock Point -- solely because of their race. Such prolonged and daily separation from the community cannot fail to have an adverse effect on the children who are sent away, and on those from whom they are separated. As one parent observed, "Life is hard enough for white kids out here. Sending them to another school will make things even tougher."

The Bureau has failed to demonstrate that its proposed use of an invidious racial classification is necessary to accomplish a purpose or safeguard an interest that is both substantial and constitutionally permissible. Without such justification, the classification violates the due process clause of the Fifth Amendment. University of California v. Bakke, 438 U.S. 265, 305 (1978) (Opinion of Powell, J.). Where, as here, an administrative classification on purely racial grounds has not been justified in terms of a compelling governmental need, it must be declared unconstitutional. See Tribe, American Constitutional Law, § 16-7 (1978 ed.).

While federal legislation providing different treatment for Indians has been sustained by the Supreme Court, it has done so on a political/tribal basis rather than a racial basis. See, e.g., Morton v. Mancari, 417 U.S. 535 (1974) (BIA's Indian employment preference extended to members of federally recognized tribes, not to Indians as a racial classification.) The proposed regulation at issue has no such non-racially based aspect. Nor can it be justified as advancing the federal policy of tribal self-determination, as the Court found in Mancari. To the contrary, the proposed regulations negatively impact tribal self-determination in two ways: by arbitrarily excluding from BIA- or tribally-operated schools any tribal members who may possess less than one-quarter Indian blood; and by hampering the ability of such schools to attract and retain talented non-Indian employees with school-age children to teach in or administer tribally-operated schools.

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The sole reason advanced for the proposed regulations is "to resolve the inconsistent tuition charging practices under existing regulations and establish uniform criteria to be used in determining which non-eligible students may be served." 50 Fed. Reg. 19701. Because no description of "inconsistent tuition charging practices" is supplied, it is impossible to evaluate whether the proposed regulations do indeed "resolve" any such inconsistencies. It is obvious, however, that the proposed regulations will not alter the already-existing need to research tuition rates allowed or charged by various states and counties, as those local limits will continue to apply to tuition charged for non-Indian attendance at a BIA-funded school.

Nor will the job of determining who is eligible for enrollment be simplified by the proposed changes. Whether an Indian child has at least one-quarter Indian blood is a determination that is already made under the existing scheme. Whether a free public school is available to a "non-eligible" Indian or non-Indian student is also a determination made under the existing rules. The arbitrary (and excessive) mile and time requirements set out in the proposed § 31.3(a) will merely standardize a definition of the term "available, adequate free school facility." The standardization of a definition (especially one so internally contradictory), can, by no means, serve as a justification for use of an invidious racial classification for availability of federally-funded education facilities.

2. The Proposed Regulations Would Adversely Impact School Operations

The proposed regulations, if permitted to become effective, will have a severe adverse impact on the operation of and quality of instruction at Indian schools, especially those located in remote and rural areas. These schools already experience difficulties in attracting experienced and qualified personnel to fill education, administrative or maintenance/engineering positions. Recruitment and retention problems will surely multiply when non-Indian job candidates or incumbents with families learn that their children are not permitted to attend the school at which their parents work, but must travel up to 50 miles in order to attend school with children of their own race. If the Indian school is in a particularly remote area, the non-Indian job holder's children will be permitted to attend that school only if tuition is paid -- an equally unattractive prospect, especially for a job that pays low wages.

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The obvious result will be disservice to the Indian students in two ways. First, the pool of talented non-Indian personnel will shrink, and the quality of the Indian schools will be adversely affected thereby. With the achievement levels of students at many Indian schools already below their public school counterparts, the BIA should be attempting to enhance, not hinder, recruitment of highly-qualified personnel. Second, the Indian children will lose the social, cultural and educational benefits that come from living in a community with residents from varying backgrounds and regions. This loss will be felt by the students both in the classroom and outside the classroom through the absence of school employees as educators and neighbors, and through absence of or forced separation from classmates/playmates of different racial makeup.

3. The Proposed Regulations Contravene the Bureau's Own Guidelines for School Proximity

In its own publication regarding locations for BIA-funded schools, the Bureau establishes the policy that "Indian children will be educated in facilities as close to home as possible on a day basis," and states that the acceptable bus travel time from home to school is one hour. Bureau of Indian Affairs, "School Construction Application Procedure," at 4, 5 (March 13, 1980).

The proposed regulations establish an allowable distance to schools that far exceeds the school proximity standards already established by the Bureau. There is no indication that these standards have been revoked or discredited, or any explanation of why different standards should apply to children of different races. Rather, the BIA, without even acknowledging its existing standards, has increased by fifty percent the tolerable duration of a bus ride to which children with no Indian blood or less than one-quarter Indian blood are to be subject. It is significant that the School Construction Application Procedure was approved for use by the Secretary of the Interior and the appropriate Congressional Committees. By contrast, the *Federal Register* notice which accompanied the proposed regulations shows no review or endorsement from the Secretary or Congress.

The expectation that some gain is to be derived by requiring small children to spend up to three hours per day on a bus (and walk up to two or three miles to a bus stop) to attend a school that may be up to 50 miles from their neighborhood is a false one. The hardship such distances place on children is

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obvious, and is compounded by the fact that the federal government imposes this hardship on them as a consequence of their race.

The BIA has failed to provide any description of the current situation regarding attendance at BIA-supported schools by students the proposed regulations would expel from those facilities. For example, we do not know how many Indian children with less than one-quarter Indian blood and non-Indian children would be forced out of Indian schools; whether the presence of these children has caused any over-crowding of Indian schools; or what schools in what areas of the country would be affected. Nor has the Bureau analyzed the effect the proposed regulations will have on the children or schools involved, or whether the local public schools can accommodate the expelled children in a suitable educational environment.

The Federal Register notice also fails to offer for examination any budgetary analysis that may have been performed before the proposed changes were announced. Since no Indian School Equalization Program funds are currently used to educate the affected students (except in a very few cases where a special waiver may have been granted for good cause), it is doubtful that any significant budgetary advantage is to be gained. If, however, budgetary concerns were a factor in the proposed new policy, the Bureau is required to spread its analysis on the public record so that the public has a meaningful opportunity for comment.

Conclusion

For the foregoing reasons, the Rock Point School Board respectfully recommends that the proposed amendment to 25 C.F.R. § 31.3 as noticed in 50 Fed. Reg. 19701 (May 10, 1985) be withdrawn.

Sincerely yours,

HOBBS, STRAUS, DEAN & WILDER

Carol L. Barbero

By: Carol L. Barbero

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Ms. **Boylan**. Thank you, Carol, for your excellent statement. I don't have any questions right now except that I am wondering if you have ever seen the Solicitor's opinion that they are talking about here that justifies their position?

Ms. **Barbero**. I didn't even know of its existence until it was mentioned earlier today.

Ms. **Boylan**. I am just wondering how that opinion deals with the issue of racial segregation.

Ms. **Barbero**. I would be fascinated to read it myself.

Ms. **Boylan**. Thank you, Carol.

Mr. **Taylor**. The comments that you submitted to the Bureau of Indian Affairs on their proposed regulations, I assume, raised this constitutional point?

Ms. **Barbero**. Yes, indeed, sir.

Mr. **Taylor**. So, I would have to assume that is one of the legal issues that Ms. Garrett sent forward to the Solicitor's Office.

Ms. **Barbero**. I would presume so. I have had some informal discussions with people in the Solicitor's staff about this. Obviously, they weren't revealing what opinion the Department will ultimately assume on this, but it has been raised at every opportunity.

Mr. **Taylor**. Thank you. I don't have any questions at this time. Thank you very much.

Ms. **Barbero**. Thank you very much.

Mr. **Taylor**. Our last witnesses are in a panel. We have Suzan Shown Harjo, executive director, National Congress of American Indians; Ray Field, executive director, National Tribal Chairmen's Association; and Jim Steele of the National Indian School Board Association from Albuquerque. We are going to have to leave the room here by 4 o'clock, so why don't we start while we are waiting for Mr. Steele to join us.

STATEMENT OF SUZAN SHOWN HARJO, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS, WASHINGTON, DC

Ms. **Harjo**. As Polonius admonished the players, this is too long, and this issue has gone on too long in the BIA. We support enactment of S. 1621, and we urge enactment of it swiftly.

It is difficult to ascertain whether the administration's good soldiers are simply following orders in this instance or simply giving orders. I think it would be helpful to the trail of this issue for the committee to obtain documents that would show where this policy was initiated and how.

In previous decades, the Congress has called the general education situation a national tragedy, and I think we may be looking here to something that will take us back to that era, which will obviate our advances that we have made, and may be referred to in the future and can be referred here in this case as a national travesty.

We have a prepared statement which I would like to submit for the record, which includes our comments to the Bureau of Indian Affairs on this subject. I would just like to make one point, that this activity on the part of the Bureau of Indian Affairs is socially disruptive, as Mr. Youngdeer so eloquently described.

We greatly resent the Bureau of Indian Affairs' statement that the BIA has encouraged tribes to tighten up their membership requirements and the newly restored tribes to use the quarter-degree Indian blood requirement. In the first instance, Indian national citizenry is an Indian or Native prerogative, as the Supreme Court affirmed in the 1970's *Martinez* decision.

In the second instance, the BIA institutionally, from its days in the Department of War to the present Interior Department placement, knows well the myriad reasons for unjust exclusions or diminishments and often for-profit inappropriate inclusions on federally approved rolls.

In the third instance, newly acknowledged and restored tribes have been federally coerced into adopting the quarter-blood requirement as one of many hoops they must jump through in order to gain administration support of their Federal status goal. It is insulting and surprising to hear so casual an admission regarding the coercion of recognized tribes in this regard in the area of their citizenry prerogative.

The only other comment I would like to make is that, even if the Indian eligible student count doubled, it would not constitute a major budgetary impact as the administration has testified.

I very frankly am outraged by this situation, and I hope you are successful in your efforts to correct it and that the bill will not be vetoed. I encourage this committee to try to also gain appropriations language that would help clarify the situation. We would be happy to continue working with you on this.

Thank you very much.

[Ms. Harjo's prepared statement, on behalf of the National Congress of American Indians, and a letter to the Bureau of Indian Affairs, dated July 3, 1985, responding to a Federal Register request for comment on proposed regulations, follow:]

STATEMENT OF SUZAN SHOWN HARJO, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS ON S. 1621, BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, SEPTEMBER 18, 1985.

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify on behalf of the National Congress of American Indians (NCAI) regarding S. 1621, a bill which would negate the Bureau of Indian Affairs' (BIA) proposed education regulations of May 10, 1985 regarding Indian children who are less than one quarter degree Indian blood. Those regulations would have prohibited children of less than one quarter degree Indian blood from attending BIA-funded schools.

NCAI supports S. 1621 and commends the sponsors and staff in both the Senate and House for their swift response in the form of this legislation. Unless S. 1621 is enacted into law, hundreds of students could be barred from their schools in November. In most cases these are children who are tribal members, who rightfully consider themselves Indian, and who will be bussed past their current nearby schools to attend public schools miles away.

S. 1621 provides that children who are one quarter degree Indian blood or who are tribal members may attend BIA-funded schools. Also eligible for tuition-free education would be children of federal or tribal employees who reside on or near a BIA-funded school. We would suggest that the category of children of federal employees is too broad, and a more appropriate category for tuition-free eligibility would be children of school personnel. We also support the S. 1621 provison which allows non-eligible children for whom local BIA schools are the most reasonable choice to be able to attend the BIA school, but pay tuition comparable to that charged by nearby public schools.

NCAI is very disturbed by the August 20, 1985 memorandum sent by Nancy Garrett, Deputy Director of the Office of Indian Education Programs, to all Area Education Programs Administrators and Agency Superintendents for Education regarding the September 23-27, 1985 student count week for FY'86. In that memorandum the Deputy Director instructed educational personnel to count for ISEP funding only those students documented to be of one quarter or more Indian blood. We find it incredible that this memorandum would be issued when the proposed regulations have not been finalized, when the comments on the proposed regulations are overwhelmingly negative, and when the school year is underway. We understand further that the BIA has informed schools that there is no guarantee that children who are not at least one quarter Indian blood, but who are attending BIA-funded schools, will be able to remain in those schools past mid-November. Not only will this affect Indian and non-Indian students, but many school personnel may be forced to leave their jobs in order to find a school for their children to attend. We consider this behavior on the part of the BIA to be nonsensical and socially disruptive. Fortunately, S. 1621 contains a provision which would allow children who enrolled in BIA-funded schools in the Fall of 1984 to remain in those schools through the current academic year.

Again, thank you for the opportunity to appear before this Committee. We urge that you act swiftly on this legislation. I would like to include for the hearing record comments filed by the National Congress of American Indians regarding the BIA's proposed quarter blood regulations.

NATIONAL CONGRESS OF AMERICAN INDIANS
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Suzan Shown Harjo
Cheyenne & Creek

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Rincon Band of Luiseno

SOUTHEASTERN AREA
A. Bruce Jones
Lumbee

July 3, 1985

Ms. Elizabeth Holmgren
Office of Indian Education Programs
Bureau of Indian Affairs
19th & C Streets, N. W.
Washington, D. C. 20245

Dear Ms. Holmgren:

In response to the request for comment on the Federal Register, dated May 10, 1985, "Conditions Under Which Non-Eligible Students May Attend Bureau of Indian Affairs Funded Schools," we submit the following comments:

The proposed regulations represent an encroachment upon tribal prerogatives and authorities to determine tribal citizenry. The requirement that only those children who are of 1/4 degree or more Indian blood are eligible for attendance at BIA schools is a radical change from current federal policy. As you know, the Indian Education and Self-Determination Act, the Indian Reorganization Act, the Indian Education Act of 1982 and the Indian Amendments of 1978 do not have a blood quantum requirement. Instead, these laws accept people as Indian who are citizens of federally-recognized Tribes. If the proposed regulations are adopted, there will be instances of children, who are citizens of federally-recognized Tribes, who now attend BIA schools and who rightfully consider themselves Indian, having to walk or be bussed past their current nearby schools to attend public schools miles away.

These regulations, if imposed, would affect 922 students, including 590 students who are less than 1/4 degree Indian blood; 298 students who are non-Indian and who generally are children of staff, and 34 students who are over-aged or under-aged. The loss of students at BIA and contract schools will affect negatively the Indian School Equalization Program (ISEP) formula. In the Aberdeen area, 463 students will be affected. In the Eastern area, 189 students from the Cherokee

Ms. Elizabeth Holmgren
Office of Indian Education Programs
Bureau of Indian Affairs
July 3, 1985
Page Two

Indian School will be affected. The results of the loss of this number of students may produce major changes in the community. (See enclosed NCAI Resolution, NCAI-MYC-1985-1.) And, of course, these regulations would affect future generations of children.

The needs of the communities should be fully and seriously considered. Many of the 298 non-Indian students affected by the regulations are children of the staff. Many of the Indian reservations are located in isolated areas, where the recruitment of professional staff is difficult and retention is low. If the non-Indian professional staff is burdened with lengthy bus rides, it would be understandable if they decide to move out of these areas so that school attendance will not impose a burden on their children.

The regulations represent a new and stringent interpretation of the 1918 appropriations law, 25 USC 297. Since that time, decisions regarding what constitutes an acceptable alternative public school have been left to local discretion and, in cases where tuition has been paid, people have not been required to pay more than what would have been paid by out of district students. This is a stunning reversal in the current policy of local control and self-determination, particularly in the area of education. It appears that decisions on what would be considered an appropriate alternative public school would be based on geography, rather than the quality of education provided and the needs of the individual children. We believe that decisions regarding tuition and appropriate educational alternatives are best decided at the local level.

Sincerely,

Suzan Shown Harjo
Executive Director

Enclosure

Ms. **Boylan**. Thank you, Suzan.

I have one question. I hope we have time for it. That is, you talked about tracing how this all came about through the BIA,

Ms. **Harjo**. I think that more documents may be available to you and your Senators and this committee generally than would be available to us through the Freedom of Information Act. It would be helpful to know through what consultative process this took place, who initiated it in the Bureau of Indian Affairs, why it was initiated, and how it fits into the overall scheme of things.

There are related issues which you may want to track down. I have not been able to track them down fully. They indicate that the Bureau of Indian Affairs is going through an Interior Department Budget Office and OMB directed study to see how the BIA can be reorganized in a quick and dirty fashion by eliminating 60 percent of it; 60 percent of it would be education and social services.

So, I think if we could use this as a jumping off point, we might discover something about the reorganization effort that I have been told but cannot substantiate is effect now or underway now. I don't know how soon it is contemplated to be in effect. I don't know who is doing this in the Bureau of Indian Affairs. I don't know what anonymous person is doing it at OMB or what anonymous person is doing it at the Interior Department, but they are nickel and diming us to death, and we just shouldn't be complacent about it, and I am glad this committee is not.

Ms. **Boylan**. Thank you, Suzan. We will pursue it.

Mr. **Taylor**. Mr. Field.

STATEMENT OF RAYMOND C. FIELD, EXECUTIVE DIRECTOR, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION, WASHINGTON, DC

Mr. **Field**. Mr. Chairman, I am speaking on behalf of the National Tribal Chairmen's Association and on behalf of the Eastern Band of Cherokee Indians.

We fully support the Eastern Band of Cherokee Indians and the principal chief, Robert Youngdeer, in the authority and responsibility to determine the standards and qualifications of tribal membership.

Federal Courts have historically recognized the right and authority of Indian tribes to define and determine their own membership and establish standards and procedures for membership.

The National Tribal Chairmen's Association supports the Eastern Band of Cherokee Indians and protests the discrimination of the Bureau of Indian Affairs through its proposed regulations which would preclude selected Indian children from attending the Indian school of their own Indian community, would deny these Indian children the benefit of cultural heritage and cohesion fostered by the local school, and which discriminates against these Indian children by setting them apart as a separate class of Indian people based solely upon racial factors.

The National Tribal Chairmen's Association does hereby request the U.S. Congress to rectify this discriminatory action by curative legislation which recognized the inherent authority of tribes to identify their members and to require Federal agencies to serve such members and by amending the proposed regulations which have been prepared by the Bureau of Indian Affairs personnel.

Provided with this testimony is the National Tribal Chairmen's Association Resolution No. 85-11 supporting the Eastern Band of Cherokee Indians.

Lastly, I would like to comment on the very statesmanlike and admirable statement of Mr. Robert Youngdeer, because I think it reflects the Indian philosophy of opening your heart and your tepee to all people. I find that permeates his statement today to this committee.

Thank you.

[Mr. Field's prepared statement, on behalf of the National Tribal Chairmen's Association and the Eastern Band of Cherokee Indians, follows:]

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 420 818 - 18th St. N.W. Washington, D.C. 20006
(202) 293-0031

TESTIMONY OF THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, SUPPORTING THE EASTERN BAND OF CHEROKEE INDIANS PROTESTING THE DESCRIMINATION OF THE BUREAU OF INDIAN AFFAIRS PROPOSED REGULATIONS AGAINST INDIAN CHILDREN

SEPTEMBER 18, 1985

Good morning, Mr. Chairman. My name is Raymond C. Field, Executive Director of the National Tribal Chairmen's Association. Today I am testifying on behalf of the Association and the Eastern Band of Cherokee Indians.

The National Tribal Chairmen's Association supports the Eastern Band of Cherokee Indians and the Principal Chief Robert Youngdeer in the authority and responsibility to determine the standards of qualifications of tribal membership.

Federal Courts have historically recognized the right and authority of Indian tribes to define and determine their own membership, and establish standards and procedures for tribal membership.

The National Tribal Chairmen's Association supports the Eastern Band of Cherokee Indians and protests the discrimination of the Bureau of Indian Affairs through its proposed regulations which would preclude selected Indian children from attending the Indian school in their own Indian community, would deny these Indian children the benefit of the cultural heritage and cohesion fostered by the local school and which discriminates against these Indian children by setting them apart as a separate class of Indian people based solely upon racial factors. The National Tribal Chairmen's Association does hereby request the U.S. Congress to rectify this discriminatory action by curative legislation which recognizes the inherent authority of tribes to identify their members and to require Federal agencies to serve such members and by amending the proposed regulations which have been prepared by the Bureau of Indian Affairs personnel which must reflect this policy.

Provided with this testimony is the National Tribal Chairmen's Association Resolution No. 85-11, supporting the Eastern Band of Cherokee Indians.

I would like to thank the Senate Select Committee on Indian Affaairs for inviting me to testify on this important issue.

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 420 818 18th Street N.W. Washington, D.C. 20006

(202)293-0031

RESOLUTION

NTCA No. 85-11

A RESOLUTION IN SUPPORT OF THE EASTERN BAND OF CHEROKEE INDIANS PROTESTING THE DESCRIMINATION OF THE BUREAU OF INDIAN AFFAIRS PROPOSED REGULATIONS AGAINST INDIAN CHILDREN

WHEREAS: The Bureau of Indian Affairs has taken an active role in the education of Indian children for more than a century, both through the allocation of funds for education and the operation of boarding and day schools in Indian country throughout the United States, and

WHEREAS: Federal Courts have historically recognized the right and authority of Indian tribes to define and determine their own membership, and establish standards and procedures for tribal membership, and

WHEREAS: In support of its policy of reducing domestic expenditures the present administration has adopted the policy position that the education of Indian children is not a trust responsibility of the federal government and has initiated actions to close various Indian schools and sought to limit and reduce federal expenditures for Indian schools, and

WHEREAS: The Eastern Band of Cherokee Indians in North Carolina, along with several other federally recognized tribes, has been informed by the Bureau of Indian Affairs Education Personnel that approximately fifteen per cent (15%) of the Indian students who now attend the Cherokee Indian School will not receive Indian School Equalization Program Funds (ISEPF) after the 1985 school year, and those Indian students will not be permitted to attend the Cherokee Indian School, and

WHEREAS: The action of the BIA is predicated upon a self-serving interpretation of 25 U.S.C. 297, which is the codification of a portion of a 1918 appropriations bill, which would deny appropriation of federal funds to educate Indian children with less than one-quarter Indian blood, and

WHEREAS: The Cherokee Indian children who are less than one-quarter degree of Indian blood are the descendents of individuals who were recognized by the Federal Government under the provisions of the Act of June 4, 1924 (43 Stat. 376) were enrolled by the Federal Government over the objection of the Cherokee Indian Council, but who thereafter have been recognized and treated as tribal members by the Tribe and the Federal Government, and

WHEREAS: The Eastern Band of Cherokee Indians has protested the interpretation and action of Bureau of Indian Affairs Education Personnel, which may ultimately result in the complete closure of the Cherokee schools and seek political and legal redress of this discriminatory action by the Federal Government.

NOW THEREFORE BE IT RESOLVED, by the National Tribal Chairmen's Association that it does hereby declare itself in support of the Eastern Band of Cherokee Indians and protests the discrimination of the Bureau of Indian Affairs through its proposed regulations which would preclude selected Indian children from attending the Indian school in their own Indian community, would deny these Indian children the benefit of the cultural heritage and cohesion fostered by the local school and which discriminates against these Indian children by setting them apart as a separate class of Indian people based solely upon racial factors. The National Tribal Chairmen's Association does hereby request the U.S. Congress to rectify this discriminatory action by curative legislation which recognizes the inherent authority of Tribes to identify their members and to require Federal agencies to serve such members and by amending the proposed regulations which have been prepared by the Bureau of Indian Affairs personnel which must reflect this policy.

CERTIFICATION

The foregoing Resolution was duly adopted by the Board of Directors and the membership of the National Tribal Chairmen's Association at it's duly constituted Convention in Miami, Florida on this 18th day of April, 1986, at which time a quorum was present.

Signed: ______________________
Richard LaFromboise
President, NTCA

Attest: Robert Youngdeer
Robert Youngdeer
Secretary, NTCA

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

UNITY STRENGTH JUSTICE

Suite 420 818 18th Street N.W. Washington, D.C. 20006

(202)293-0031

RESOLUTION

NTCA No. 85-11

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Page 2 - NTCA No. 85-11

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Signed:
Richard LaFromboise
President, NTCA

Attest: Robert Youngdeer
Robert Youngdeer
Secretary, NTCA

Mr. TAYLOR. Thank you very much.
Mr. Steele.

STATEMENT OF JAMES STEELE, NATIONAL INDIAN SCHOOL BOARD ASSOCIATION, ALBUQUERQUE, NM

Mr. STEELE. I have a document here I wish to submit for the record. I also have a statement here which is handwritten, but the statement I have here is more precise.

Thank you for the opportunity to speak on behalf of the National Indian School Board Association on the Issue of blood quantum and its significance in determining whether an individual is a bona fide Indian. Although I have not been specifically directed to address in depth this particular issue by NISBA, I do wish to submit for the record a document which contains a number of precise concerns outlined by our executive director, Carmen Taylor. One is addressed to the Honorable John Melcher; the other one is to Dr. Kenneth Ross, acting director. I am sorry I only have this one copy; I didn't have time to make additional copies.

I can only request that this committee seriously review the source of and the real intent of the recommendations you have been receiving from the Interior Department, specifically, the Bureau of Indian Affairs. It is becoming more and more obvious that the recognition, enforcement, and protection of the Indian Self-Determination Act by the one Federal agency granted the authority to do so is not being carried out.

All of you esteemed individuals have been granted the trust and responsibility from the people of all races to make sound decisions based on qualified, sincere, and honest information from those persons within the system who are supposed to know. You are being placed in a position that is the ultimate in unfairness.

By this, I mean that all Indians have been granted the right to make their own decisions as to what they consider a proper measurement to qualify as an Indian of any particular tribe whether it be by descendancy or adoption or other relationships rather than this mathematical fiasco we are all so familiar with and which has been so misinterpreted and abused by our trustees. It is an individual and tribal right to determine for themselves who is and who is not an Indian, and to try to establish a blanket policy to apply to all Indians in the United States is an insult to our dignity and also ignores the diversity in culture and religious beliefs and also the geographical impacts placed on us.

To jeopardize the opportunity for our young people to gain an education to survive in today's most complex and automated world because their tribal existence is measured not in whether they are people accepted for what they are but by someone with a degree in genealogy and a calculator with bad batteries can only be described as criminal and also displays a very serious problem in how the bureaucracy within the BIA system has reached and all-time high and adds new dimension to the world "hypocrisy."

We ask only that you lend serious consideration to allowing individual tribes to exercise the right to determine who is an Indian and who isn't and allow them to exercise their right to determine their own destiny. We support the bill as submitted.

Thank you.

[Mr. Steele's prepared statement, on behalf of the National Indian School Board Association, and the correspondence mentioned in his oral presentation, follow:]

PREPARED STATEMENT OF JAMES STEELE, ON BEHALF OF THE NATIONAL INDIAN SCHOOL BOARD ASSOCIATION

Thank you for the opportunity to speak on behalf of the National Indian School Board Association on the issue of blood quantum and its significance in determining whether an individual is a bona fide Indian.

Although I have not been specifically directed to address in depth this particular issue by NISBA, I do wish to submit into the record a document which contains a number of precise concerns outlined by our executive director, Carmen Taylor.

I can only request that this committee seriously review the source of and the real intent of, the recommendations you have been receiving. It is becoming more and more obvious that the recognition, enforcement, and protection of the Indian Self Determination Act by the one Federal agency granted the authority to do so, is not being carried out.

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It is an individual and tribal right to determine for themselves who is and who is not an Indian, and to try to establish a blanket policy to apply to all Indians in the United States is an insult to our dignity and also ignores the diversity in culture, religious beliefs, and geographical impacts placed on some of us.

To jeopardize the opportunity for our young people to gain an education to survive in today's most complex and automated world because their tribal existence is measured not in whether their people accept them for what they are, "but" by someone with a degree in genealogy and a calculator with bad batteries. This can only be described as criminal, and also displays a very serious problem in how the bureaucracy within the BIA system has reached an all time high and adds new dimension to the word hypocrisy.

We ask only that you lend serious consideration to allowing individual tribes to exercise the right to determine who is an Indian and who isn't and allow them to exercise their right to determine their own destiny.

Thank you.

NISBA

NATIONAL INDIAN SCHOOL BOARD ASSOCIATION
P.O. BOX 80008 • ALBUQUERQUE, NEW MEXICO 87198 • (505) 268-3106

June 12, 1985

EXECUTIVE COMMITTEE

ELLSWORTH C. BROWN, SR.
President

CHARLES LA FLOE
Vice President

JOYCE FANDRICK
Secretary

ROGER WILSON
Treasurer

NEWTON J. LANE
Member-at Large

The Honorable John Melcher
Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Melcher:

In the last several months Bureau of Indian Affairs' Office of Indian Education Programs has begun to enforce a number of obsolete federal statutes. Three of those statutes, 25 U.S.C. 288, 289 and 297 are codifications of appropriations language from the beginning of the century concerning enrollment of persons with less than 1/4 degree Indian blood in Bureau schools. In May the Bureau published proposed rules which we believe are unnecessary, ill-advised and have now created a problem which requires the attention of your Committee where none previously existed.

We believe each of these statutes should be repealed. Modern federal statutes dealing with Indians define the term "Indian" by reference to their membership in federally recognized tribes. Examples of such statutory definitions include the Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. 450b(a); the Older Americans Act of 1965, 42 U.S.C. 3002(4); the Indian Financing Act of 1974, 25 U.S.C. 1452(b); and the Health Care Improvement Act of 1976, 25 U.S.C. 1603(c). The enclosed copy of NISBA's comments on BIA's proposed rule explains in more detail our reasons for requesting repeal of these statutes.

A second statute which we believe should be repealed is 25 U.S.C. 290 which prohibits the transportation of Indian pupils under the age of 14 years at government expense to any Indian school beyond the limits of the state in which his or her parents reside. With closure of most of the off-reservation boarding schools, this statute affects only a few

Indian children, each of whom likely has an extremely valid reason for wishing to attend the out-ofstate Bureau school. Eligibility requirements for Bureau schools provides sufficient enrollment restrictions, and there is no need for the perpetuation of the statutory prohibition.

The National Indian School Board Association understands that your Committee may consider perfecting amendments to Title V of P.L. 98-511. If so, we would appreciate it if you could consider including a repeal of the four statutory provisions discussed in this letter.

Thank you for your consideration of our views.

Very truly yours,

Carmen Cornelius Taylor

Carmen Cornelius Taylor

Enclosure

NISBA

NATIONAL INDIAN SCHOOL BOARD ASSOCIATION
P.O. BOX 80008 • ALBUQUERQUE, NEW MEXICO 87198 • (505) 268-3106

June 12, 1985

EXECUTIVE COMMITTEE
ELLSWORTH C. BROWN, SR.
President
CHARLES LA FLOE
Vice-President
JOYCE FANDRICK
Secretary
ROGER WILSON
Treasurer
NEWTON F. CARL
Member-at Large

Dr. Kenneth Ross, Acting Director
Office of Indian Education Programs
Bureau of Indian Affairs
Department of the Interior
Room 3512
Washington, D.C. 20245

Re: Conditions Under Which Non-Eligible Students May Attend Bureau of Indian Affairs-Funded Schools, Proposed Rule

Dear Dr. Ross:

Your notice of May 10 in the Federal Register claims that it is "necessary" to amend the regulations to more clearly specify the conditions under which non-Indians and Indian students of less than 1/4 degree blood quantum of a federally recognized tribe may attend Bureau-funded schools. In fact, the regulations are not necessary, they affect a handful of individuals at isolated locations who experience special local situations.

As will be explained below, your proposed rules have created a problem where there was none, and if adopted will generate a great deal unnecessary activity. Our President could find no more perfect example of misguided federal regulatory excess than the efforts of your office reflected in these proposed rules.

As we understand it, there are 922 individuals in the United States who are affected by these regulations. Many of them are children of non-Indian teachers and employees at Bureau of Indian Affairs schools in remote locations. It has long been customary in this nation for remote schools to provide free tuition for its teachers and employees in order to attract and retain the employees and keep families together. Family unity is an important value in our nation.

Most of the other individuals affected by your proposed regulation are enrolled members of federally recognized Indian tribes residing on Indian reservations who happen to possess less than 1/4 degree of Indian blood. Invidious discrimination based on race is one concept which our nation rejects. Although the courts have recognized that valid discrimination may be based on tribal membership to confer or deny benefits, your proposed rules discriminate between members of the same tribe based on blood quantum. The federal government should not establish first and second class status for members of a single tribe. In this connection, it bears some emphasis that this regulation is directed at a handful of families who will bear the full burden of this discrimination. The budgetary impact is trivial.

Finally, the remaining individuals affected by your regulations are those for whom there is no public school available. Most individuals in this category are children of non-Indian employees at remote Indian reservation locations. Our constitution guarantees to every citizen of the United States an equal educational opportunity. State governments provide this opportunity for the overwhelming majority of citizens. Any state which fails to provide an educational opportunity for its citizens is in violation of the Constitution and civil rights laws and the matter should be referred to the United States Department of Justice for enforcement.

For a few individuals at remote, isolated locations, it may not be practicable for the state to provide a public school. Where this is the case, the federal government enhances the rights of all citizens for an equal educational opportunity by making Bureau-funded schools available. There is no good reason to require that the full cost of this accident of geography be borne by the affected citizen. In this connection, it should be noted that public schools serving Indian reservation districts receive substantial federal funding from the United States government. Again, we are concerned with a trivial cost for a handful of people in isolated locations who will receive educational services either through appropriations for the United States Department of Education or the United States Department of the Interior. If conceptual purity is required by your Department, you might authorize the Bureau of Indian Affairs to seek reimbursement from the state public school district.

We have the following specific recommendations. First, 25 C.F.R. 31.1(a) should be amended as follows:

> (a) Enrollment in Bureau-operated schools is available to children of 1/4 or more degree of Indian blood and children who are enrolled members of federally recognized Indian tribes who reside within the exterior boundaries of Indian reservations under the jurisdiction of the Bureau of Indian Affairs....

Comment: This provision would preclude discrimination between children who are enrolled in a federally recognized Indian tribe and reside on an Indian reservation with respect to the provision of education services. The 1918 Appropriations Act which established the 1/4 Indian blood quantum requirement is obsolete, and would be automatically repealed by enactment of an appropriations act making reference to this new regulatory provision.

The definition in proposed 31.3 of an "available, adequate free school facility" should be changed to read as follows:

> (1) is within 20 miles from the student's home or does not exceed 1/2 hour's bus ride; and
>
> (2) provides or is willing to provide bus service to within 1/2 mile's walk from a student's home....

Comment: It is arbitrary and unreasonable for the federal government to require a school age child to walk 1 1/2 miles to a bus and then ride a bus for 1 1/2 hours in order to get to school. Often times, these students would pass an existing BIA or contract school enroute to public school. The proposed standard is unduly harsh, even punitive.

The requirement in proposed subsection (b) of Sec. 31.3 for the payment of tuition is obsolete. In 1909 when 25 U.S.C. 288 and 289 were enacted, free public education was not provided to most citizens by government. That is not true today. Virtually all non-Indian residents of Indian reservations voluntarily choose to attend available public schools. The handful of non-Indian students at Bureau schools are either the children of school employees or children for whom public schools are not available.

It costs the Bureau of Indian Affairs more money to collect tuition, administer and account for the funds than would be generated by the tuition payments. In the case of children of school teachers and employees, the tuition requirement acts as a positive disincentive for recruitment and retention which necessarily adversely affects the quality of education at the Bureau of Indian Affairs school. In many areas of the country, Bureau of Indian Affairs school teachers are now paid less than are teachers at public school districts. Recruitment and retention of teachers is a major problem in the Bureau of Indian Affairs school system which would be exacerbated by the tuition requirement.

For the foregoing reasons, we believe that no tuition should be required for attendance at Bureau of Indian Affairs schools. If, however, the Bureau of Indian Affairs believes that tuition should be paid, then the Bureau of Indian Affairs should assume the obligation to collect tuition from the affected state or local public school district to reimburse itself. The Bureau of

Indian Affairs is in a better position to collect these funds than is the individual affected.

The foregoing comments constitute the position of the National Indian School Board Association.

Sincerely yours,

Carmen Cornelius Taylor

Carmen Cornelius Taylor
Program Director

Mr. Taylor. Thank you very much. The committee certainly appreciates these statements from the national Indian organizations. I am sure that the Eastern Band of Cherokee does, too.

Do you have any questions, Ginny?

Ms. Boylan. No. I just want to thank all the witnesses very much for their statements.

Mr. Taylor. Thank you very much.

The committee will stand adjourned.

[Whereupon, at 3:55 p.m., the committee recessed, to reconvene subject to the call of the Chair.]

APPENDIX

Additional Material Submitted for the Record

Comments On

S. 1298

Indian Juvenile Alcohol and Drug Abuse Prevention Act

Prepared By

Albuquerque Area Indian Health Board

Albuquerque Area Indian Health Board
5600 Domingo, N.E. / Albuquerque, New Mexico 87108 / (505) 268-4391

We represent the Albuquerque Area Indian Health Board, Inc. and hereby offer our comments on S. 1298 on behalf of the tribes and communities represented therein: the Jicarilla Apache Tribe, Mescalero Apache Tribe, Alamo Navajo Chapter, Canoncito Band of Navajos, Ramah Navajo Community Chapter, Southern Ute Tribe, Ute Mountain Ute Tribe, and off-reservation populations within the Denver and Albuquerque metropolitan areas.

A 1976 study conducted by the Alcoholism Council of Orange County, California showed that two thirds of the 2,500 polled-ages seven to twenty-one had reached "drinker status". This is identical to the drinking rate among adults in a 1965 study. The same survey showed a four hundred percent increase over the youth drinking patterns since 1964.

As of 1983, sixty percent of the people killed in drunk driving accidents were teenagers. Nearly 20,000 are killed annually because of drunk driving. National suicide rates among grade school younsters have risen sharply. Depression has been cited as the major reason for these pre-teens taking their lives. Alcohol is a depressant drug. Of the children interviewed by the Orange County Study, nearly twenty-six percent have reached problem proportions in their drinking. The suicide rate for alcoholics is 58 times that of non-alcoholics.

Americans consumed 4.6 billion gallons of alcoholic beverages in 1976. 95 million Americans were drinking alcohol that year. If we add the increase in the number of drinkers since then, the figures are startling.

Young alcoholics come from all classes of our society, from both sexes and all ethnic groups. But to these shocking statistics add the fact that Native American youth have the highest proportion of heavy drinkers and these are statistics that understate the dimensions of the problem.

In some of our communities children are drinking at the ages of 6 and 7. Many are already into inhalants by the age of 4. In the ages 13-19 around 80% are reported drinking. Most suicides among Indians are alcohol related and so are most accidental deaths. 90% of all crimes commited by Indians are alcohol related.

The alcoholic and problem drinker affect every aspect of the community life - its welfare, health, family, economy, education and so on. When we think of all the pathology that an alcoholic community experiences - suicide, homicide, child abuse and neglect, poor productivity, low educational outcomes, etc. - the magnitude of social decay is astounding. The worst tragedy is that the prevalence of this destructive behavior in some Indian communities has become not only tolerated but socially accepted.

The reason for this acceptance is that alcoholism creates a family behavior dynamics that impacts on every person in that family or somehow connected to it. The behavioral adaptations to the pathology is what the jargon in the field of alcoholism has called co-dependency. So we are dealing not only with the alcoholic behavior of a large segment of the population, but with co-dependent behavior of entire communities.

While we agree that there is an urgent need to address the problems of adolescents, we feel that it must not be addressed in isolation.

Therefore, in the following pages we will delineate first the complex historical setting in which we are working, then the approach and focus we are taking and finally, we will comment specifically on the provisions of S. 1298.

INTRODUCTION

Historically, well-integrated, well-developed societies have produced well-integrated families and individuals who derive satisfaction, positive self-identity and meaning for their lives from the balance and security they experience. The individuals and families of these societies are generally mentally and physically healthy and experience very low rates of such social pathologies as substance abuse and addiction, suicide, crime, divorce and child abuse. On the other hand social disorganization, rapid cultural and social change, cultural, economic, political and social conflict result in interpersonal stress, confusion, alienation, despair and depression. These in turn may appear in the form of crime, suicide, addictions and numerous other dysfunctions.

Research both within and outside the Indian communities demonstrates that this same universal phenomenon applies to Indian people today. The acculturation dilemma that many tribes and their members face is raising the rates of dysfunctional behavior. Tribes are undergoing rapid social and cultural change. These changes are encroaching on every aspect of Indian personal and community life. Studies done thus far specifically link school failure, alcoholism, suicide, crime and early pregnancy to this dynamic of change. In order to address the dysfunctions that result from this rapid change we must address the issue of social, economic, political and cultural development of communities.

Most people think of development and modernization in terms of political power and economic enterprising. Often this is done by modeling solely the American capitalist free enterprise system. What is not often understood is that without the social and cultural development of the people these political and economic dynamics only make them more susceptible to the vulnerability of alienation, disintegration and sense of meaninglessness of their existence and therefore, of the destructive behaviors. Economic development though very important must be integrated with the social development of the people.

Only those who are part of well-organized communities where a sense of belonging is strong, whose interpersonal relationships are stable and well-integrated, and whose values are clear enough to allow them the judgmental skills necessary for good decision-making can then make the choices for economic enterprising that will affirm a high quality of life for themselves and their communities.

Only children who have grown in families and communities which have provided that type of integration can become successful in their school or academic performance or in the general and significant acquisition of knowledge. Success in this realm has a significant risk-reduction effect in their adult lives in the world of political leadership, economic enterprising, social and cultural contribution and personal satisfaction. With this understanding in mind, a comprehensive alcoholism prevention effort must consider a wholistic look at the communities. Both the approaches and the foci must include a multi-pronged way of addressing the entire community.

APPROACH AND FOCUS -

Alcoholism is a problem that impacts communities around the world. In the United States, there has been a revival of concern over its effects. And while alcoholism has severely affected Indian communities for several generations, it has only been recently that any concerted attempt to deal with the issue has emerged. There is great hope that the national concern over the impact of alcoholism and drug abuse coupled with the special concern felt by Indian communities will provide the impetus, direction, and alliances necessary to win this war against alcoholism.

The issue of alcoholism prevention is multi-faceted. There are however, two basic aspects into which the many facets will fit. Those are the approach and the focus. The focus should be broad based. And the approach should meet the needs of different target populations.

Currently many people are concentrating on the individual in their prevention efforts. Self-esteem, skill development, getting in touch with yourself are catch words and concepts in the individual focused approach. But such direction is one-sided. A person's self-esteem and self-worth are integral to the community. They are found and reinforced in one's relationships within the family and community, and in one's work. If these efforts are not focused on the community as well as in the individual, the person ends up with a false sense of self-esteem and self-worth that are not reinforced in their daily relationships in the community. Such a fragile shell of self-esteem is easily shattered and much harder to repair once it is broken.

The same is true for the prevention program that is solely focused on community development. Without developing the individuals, community development projects can only fail because those who are to participate and control the projects may be suffering from untreated alcoholism or co-dependency. Their judgment may be impaired and their relationships in the community may be stigmatized. Thus, in order for the totality of the problem to be addressed successfully, alcoholism prevention must have both a collective and a personal development focus.

There is also the question of the approach to be taken. When one considers that there are basically three groups of people in relation to alcoholism: Those who appear to be functioning well; those who are obviously sick from the alcohol; and those who are chronically ill, one can see that the efforts must be able to meet the needs of each group. Thus this approach should be three pronged: Primary Prevention geared at creating a healthy environment for all people; Identification and Intervention for those obviously sick or at high risk of becoming sick; and Treatment for those who are chronically ill.

Each prong has a different target population, and thus requires different programs. The primary prevention prong deals with socio-economic development as well as personal development of people in an environment that promotes wellness. This wellness model must be conceptualized as the reintegration and development of communities through the socio-economic growth of individuals, families, and the systems and structures which are there to serve them. The target population includes children, parents, and families who are not using alcohol or drugs as well as the environment in which they live. The programs should be oriented to insure that children and young adults have the chance to develop the following essential skills:

1. Identification with viable role models;
2. Identification with and responsibility for family processes;
3. Faith in personal resources to resolve problems;
4. Adequate development of intrapersonal skills;
5. Adequate development of interpersonal skills;
6. Well developed situational skills;
7. Adequately developed judgmental skills.

The development of these skills will provide children with the ability to deal with the world without having to resort to drugs or alcohol to soothe their hurt or escape from life. At the same time, the social, political, economic and cultural aspects of the community must be addressed from the point of view of allowing the full development of the individual to insure that he/she will be able to maintain that sense of self worth in an environment that promotes personal, economic, cultural, and general social development.

The target population for the early identification and intervention prong includes those who are using alcohol and drugs to an extent that their personal lives or the lives of others around them are beginning to be impacted by the use. Problems at work, at school, with the legal system have begun to show up. But they also provide a point from which to intervene in the cycle of drug and alcohol use. They provide a basis for work with the individual and the community to resolve alcoholism and drug abuse issues through the work or school environment, the legal or health systems or any other situation within which people function.

The third prong is directed to the chronic, often called end-stage client. This is the client that is very ill from alcohol and drug abuse and for whom employment, family, and other aspects of community life have little or no meaning. Yet failure to adequately treat these clients will continue the cycle of alcoholism in the community.

Thus, when speaking of Primary Prevention, what is actually being addressed is community and personal development and therefore, it is important to address the following:

1. Stabilization of families through effective parenting skill development, education of the entire family on issues of personal growth, child growth and development, importance of social and community involvement, integration of the school activities with community and national realities, communication, values clarification, affirmation of traditional activities that will contribute to a positive self-identity perception as well as the incorporation of skill development necessary to function comfortably and well integrated with the modernization process.

2. Because the Indian population is basically a young group, it is necessary to make an all out effort to give children and young people the skills necessary to function well in the modern world as well as the pride they need for their sense of self-identity based on their roots and heritage. These skills include positive and viable role models on which to base their behaviors and goals; seeing themselves as significant contributors to their families, their schools, their communities and the nation; perceptions of themselves as effective problem solvers; ability to deal with themselves intrapersonally; ability to deal effectively in their interpersonal relationships; well-developed situational and judgmental skills. These skills can only emerge within family, school and community settings. Parents need assistance in developing these skills themselves in order to pass them to their children. Teachers need to develop them

as well and able to incorporate them in their curricula. Adults have to view themselves as socially responsible for what happens to the children of their communities. Advocacy networks must be developed on behalf of children to assist them with and defend them before the difficulties they encounter whether at home, in schools and the communities in general. Some children need academic assistance; some need social assistance; some need a friend; some need an advocate who can help them with problems of physical, emotional or sexual abuse, problems of neglect or racism or the many other difficulties they face in growing up. Mentoring systems need to be incorporated into the schools. Children need guidance in making choices both for the present and for the future. Many need to even learn to develop goals for themselves and then how to strategize for the achievement of those goals.

3. Efforts toward tighter cultural integration of the communities is necessary. This must include a selection of significant traditional values and skills in balance with modern values and skills. The mission of this integration is to offer the people a viable social structure in which they can find meaning and security in their lives as they must live them within the context of today.

4. Economic development should not be viewed as simply a means to make dollars and acquire jobs and material goods. Technologies appropriate to the environment must be sought. The protection of the land, the water and the natural habitat is of upmost importance if we are seriously considering the future generations. Jobs should not just offer a pay check, but personal gratification as well as a sense of social contribution to the community. Many tribes have introduced or allowed to have others introduce economic activities to their communities that will bring them dollars in the short run, but that in the future will create serious social problems as well as the destruction of their land, water and other resources.

5. The Indian communities need strong, knowledgeable, wise, and courageous leaders. Uninformed, uneducated, fearful leaders are a disaster for any group. There are serious decisions to be made and often this is scary. Risk-taking is not comfortable but it is part of the necessary approaches to life and growth. The development of this kind of leadership must be an integral part of the development of any community.

In sum, when speaking of Primary Prevention or community development, it is essential to address the following:

1. Stabilization and strengthening of families.
2. Improvement of the relevance and outcomes of the education of young people and development of the seven basic skills among the entire population.
3. Clarification of values and beliefs which will permit the development of clear tribal goals which will be achieved through the integration of the best and most useable tools and understandings of the traditional and modern worlds.
4. Economic development which is appropriate to the environment, culture, skills, wellness and goals of the community.

Early Intervention with Early Identified clients and Treatment for chronic patients must be addressed simultaneously with the primary prevention strategies. Early Intervention with alcohol and drug problems involves identifying individuals and families at high risk for problems and referring them for evaluation and treatment at the earliest appearance of symptoms. The concept also involves reorienting treatment programs to deal with these individuals and families in the earlier stages of chemical dependency. Certain institutions or agencies in our society are ideally suited to initiate early interventions because they add a measure of enforcement to the weight of a referral, thereby countering the resistance of an individual to seek help common to the disease.

Aspects of a successful Early Intervention should include the legal system, the workplace, the school, and the health and social services. With regard to the legal system strict enforcement of existing alcohol and drug-related statutes in all jurisdictions, both tribal and non-tribal is of primary significance. The court ordered screening of all offenders suspected of alcohol or drug involvement should include a thorough assessment and recommendations for appropriate treatement. Screening should be mandatory for all cases where drug and alcohol involvement is a given, i.e., driving under the influence of intoxicants, public drunkeness, minor in possession of alcohol, etc. and available at the discretion of the court for other offenses. Requiring referrals to treatment as part of the probationary stipulations of convicted offenders who have been determined to be in need of treatment by a qualified screening program should also be included as a major effort.

In terms of the workplace support for a nation-wide emphasis on the establishment of Employee Assistance programs by employers in both the public and private sector represents a powerful tool. In particular, the establishment of effective programs for all federal and tribal employees should be encouraged. Employee Assistance programs have been developed as a response to the need of businesses, agencies, and other employers to rehabilitate workers and managers who have personal problems severe enough to reduce their job performance. Successful programs are based on the following assumptions:

- Alcoholism and other personal problems such as marital discord, financial and legal difficulties, and mental or emotional disorders, should be regarded as medical problems in the workplace.
- The best method for identifying these personal problems is the supervisor's awareness of impaired work performance.
- Confidential sources of evaluation, referral, and treatment should be available to all affected employees on a voluntary basis, whether or not they have been referred by a supervisor. Services should also be made available to the members of an employee's family.
- Regular disciplinary action for poor work performance should be suspended while the employee conscientiously seeks help for his/her problem.
- Returning to adequate job performance is the primary measure of successful outcomes.

According to the Fourth Special Report to the U.S. Congress on Alcohol and Health (U.S. Department of the Health and Human Services, 1981), Employee Assistance programs appear to be the most widely used method for intervening with alcohol and drug-related problems in our society. They are also proving to be successful at what they do: "Cost-benefit studies of Employee Assistance programs generally support the claim that productivity losses attributable to alcoholic employees can be reduced" (Fifth Special Report, 1984).

Schools are a very important setting for the early identification and intervention approach. The adoption of Student Assistance programs in schools to provide for the identification, evaluation, and referral to treatment of students experiencing academic or disciplinary problems related to the use of alcohol or other drugs by themselves or other members of their families has to be an intricate part of the school services and of the effort to arrest alcohol and drug usage.

Training and networking of health and social service providers in all communities to be able to identify and effectively deal with problems related to alcoholism, other forms of chemical dependency, and co-dependency (i.e., the effects of the disease of chemical dependency on those who encounter it in someone close to them) is necessary if the goal is to get to everyone affected. Again, the emphasis should be on intervening with whole families as well as individuals with every effort made to keep families together.

None of these efforts deal with the treatment of the chronic alcoholic. Yet this group must be addressed as well. While the reorientation of efforts in our society toward primary prevention and early intervention with individuals and families, must be supported, it is also necessary that those people diagnosed as chronic alcoholics or substance abusers should be given the opportunity to obtain high quality treatment and to return to communities which support an environment of recovery for both the individual and the family. Rather than simply being sent to so-called "revolving door" programs for custodial care, it is recommended that such individuals should be able to participate in intense family-based treatment programs before they are dismissed as hopeless.

In addition, it is important to support the funding of 24-hours detoxification facilities wherever feasible as an alternative to jail or death by exposure. Such facilities should be part of a continuum of care which will allow them to interact effectively with police and emergency services and then make appropriate referrals for treatment beyond detoxification.

Effective professional alcohol and drug treatment programs for individuals who are incarcerated is also necessary in order to get at all groups which in one way or another will eventually have their impact. It would be comfortable enough to say that this three pronged approach at the individual and community level will take care of the problem. Unfortunately, that is not the case. Our own obversations and all reports and studies on substance abuse by adolescents and young children show an alarming increase in regular use pressured by their peers and the messages they get on a regular basis from all the institutions that form our beliefs and behavior. These observations and statistics reveal profound risks to both the evolution of human relationships and human physiology. Therefore, carefully strategized intervention at several levels is required if we are to truly influence the future impacts of this trend.

It is important to remember that each person develop unconscious beliefs that are largely formed early in life, are strongly influenced by cultural patterns and are unconsciously held collectively. Even when these beliefs are disadvantageous to individuals and groups, there is strong resistance to changing them. The media, for example, is one powerful way of developing this individual or collective unconscious information.

The use of television advertising by the liquor industry puts a powerful image of alcohol use in nearly every American home, teaching children at early ages that alcohol is desirable and even essential for social interaction, for celebration, enjoyment of leisure and to affirm prosperity. One billion dollars annually is spent by the liquor industry for this advertising. To delegitimize this image of alcohol as a part of the social reality of leisure, sport events, rodeos and evidence of personal ease and prosperity this advertising must be eliminated as it is clearly injurious to children and young adults.

With the current epidemic of alcohol-related illnesses and problems of young people in America and the intensity of this dilemma for Indian people, action must be carefully planned and given priority.

There are a multitude of things that can be done. Some require supporting efforts that are already in existence and that others have already led for us. For instance:

- The National Coalition of organizations and individuals who in 1984 began to petition the television and radio broadcasting companies to eliminate liquor advertising must be supported by all those who are concerned about this psychological brainwashing.
- Another strategic plan could include a community effort to change collectively held beliefs and messages about the desirability of alcohol at community sports and events. One way to start is by eliminating liquor industry sponsorship of any event. Instead, sponsorship that emphasize health to promote healthy activities can be utilized.
- One other approach could deal with drinking age. The minimum age drinking laws can be standardized nationally at age 21, as another powerful statement that the risk of addiction and its detrimental health effects to young people are too great to legitimize drinking at any younger age.

Finally, communities need to carefully assess the impact of alcohol and drug-related behavior on family stability, job and school performance, judical decisions, health costs and economic priorities. By using community profile or assessment tools to produce a clear picture of the effects of alcohol and drugs, action steps can be planned and implemented to overcome the resistance to change of beliefs and values on alcohol use. This kind of problem oriented research must be designed in such a way that it will make it possible for the community leaders to evaluate alternative policies and programmatic planning and implementation techniques.

Through a clear picture of what the community faces and its options to change those conditions a strong leadership willing to take the risks to go after those optimum conditions will become very effective in overcoming the resistance to change that comes as a result of the bombardment of messages the unconscious fears and the vested interests of individuals, and/or groups.

In sum, the mission of an effective strategy to deal with the issue of alcoholism must be to produce well integrated individuals, families, and communities where satisfaction and positive self-identity and meaning for their lives emerge from the balance and security they experience.

The approach must be multifaceted; thus addressing the environment through controlled and carefully planned change as well as the stabiiization of individuals and their families. Since change is going to occur anyway, it is important to control it for the well-being of the people who will be affected. To control change does not mean to hold back. It means to steer it in the direction that will promote the wellness of the people who will be living it as well as creating the healthy environment in which they will flourish.

Provisions of S. 1298

We have grouped the provisions of S. 1298 into categories that will permit concise comment.

I. Interdepartmental Agreement

This is a critical consideration and should be strictly adhered to not only among the BIA and IHS, but with their contractors, tribal schools and state programs. It must be understood, however, that it is not merely issues of "territoriality" which impedes cooperation and resource sharing but rigid funding agency policies and regulations.

II. Education

As described earlier in our comments, effective school programs must go far beyond "instruction regarding alcohol and drug abuse." In addition to primary prevention activities (mentoring, advocacy, etc.), many Indian students require drug and alcohol counselling rather than informational programs.

At the very minimum, Indian education program staff should be trained in the early identification of alcohol and drug problems and should have appropriate referral resources for intervention and treatment.

III. Family and Social Services

The training mandated in the bill for CHR's, schools, clinic, law enforcement and shelter personnel is essential. There must be some provision made however, to describe which people should receive training for what aspects of alcohol and drug abuse. For instance:

a) All people involved directly with students should be skilled in identification of drug and alcohol problems and referral procedures;

b) Someone in each of those settings should be skilled in crisis intervention, structured interventions, alcohol and drug assessments, treatment planning, and treatment network development; and

c) Someone else should be skilled in developing effective, comprehensive prevention programs.

IV. Law Enforcement

While the idea of "other than jail" detention is excellent, the possibility for implementation under current conditions is slim to none. A mental health needs assessment of children where we are currently conducting in a 5 state area of the Southwest indicates that there is an absolute crisis in out of home placement resources in Indian communities. Often there is not shelter even for those in need of protective custody due to severe abuse and neglect. Rarely are children in need of temporary shelter over the age of 6 ever placed because of availability constraints.

Any attempts to relieve this crisis through establishment of temporary emergency shelters and/or payment to private individuals should also include budget items to provide training for "foster families" and some means to monitor these families and the care they are providing.

V. Juvenile Alcohol: Drug Abuse Treatment and Rehabilitation

Treatment programs should be designed to meet the specific needs of adolescents. They should not be an adaptation or extension of adult services. There must be a continuum of care available which includes but is not limited to early identification, structured intervention, out-patient, limited in-patient (45 days), extended in-patient (24 to 36 months), aftercare, co-dependency as a primary diagnosis and intensive family therapy.

Included in the assessment of treatment needs should be not only the numbers of children in need of services but the kinds of treatment required, the appropriate settings for same, the duration of various treatment components including structured aftercare, and the implied and companion treatment needs of the families of dependent children.

Additional Comments and Recommendations

The average cost in this nation to treat a chemically dependent young person is between $12-20 thousand for a limited in-patient program and the success rate of available treatment hovers around the 30 percent mark. Therefore, we believe it beehoves the Congress to consider the addition to the bill of some strong prevention components.

Please consider the following:

1. That planning and implementation of strategies for the prevention of alcoholism be built around community and tribal entities.

2. That strengthening of existing community development programs or creation of new ones require as part of their priorities, strategies to prevent alcohol and drug abuse.

3. That a cost benefit analysis be made and used in each community to emphasize the added benefits of alcoholism prevention.

4. That the highest priority be given to the building of a comprehensive prevention strategy stressing the community leadership's involvement in changing behavior patterns and the development of alternative life styles.

5. That representative Indian organizations under alcoholism contracts or grants be held accountable for actions and funds to their constituency and funding agency.

6. That a formal policy be issued clarifying and affirming the federal responsibility and facilitating the implementation of the act which provides for health services to Indian people wherever they reside.

7. That specific authorities and funds that could make S. 1298 an effective reality be contained in the bill. Thus, there is the need to develop the criteria and provide the authorities and appropriations necessary to make this comprehensive approach a program of national scope. This program should be included within a comprehensive health model system.

8. That all entities mentioned in the bill including IHS, BIA and their contractors (tribal and non-tribal) be required to develop and implement a drug and alcohol policy for their employees and a functional employee assistance program within one year.

Any form of alcoholism prevention will have to do more than educate whether this education comes in the form of information or formal training. Patterns of living and attitudes will have to be altered in order to ultimately reduce the incidence of addictions. The community can and should bring pressure on the individuals who live in it. This is what intervention is. But in order for the community to do that, it must feel the pressure upon itself as well. This is what community intervention is. This must be done because neither the community nor its people can ignore these ills anymore or expect the existing alcoholism programs to clear the streets, bars and jails, picking up the end stage and often physically, emotionally and socially half dead people, detox them and bring them back to be healthy, stable and socially conscious and productive beings. Neither morally nor socially can Anglo America and its representatives or Congress afford the continuing failure of crisis oriented programs.

7/85

PROGRAM SUMMARY OF

AMERICAN INDIAN YOUTH ALCOHOL ABUSE AND ALCOHOLISM PREVENTION PROJECT

by

The Reverend Jack Chapman White

CONCLUSIONS:
A SUMMER NEIGHBORHOOD AMERICAN INDIAN YOUTH PROJECT ON ALCOHOL ABUSE AND ALCOHOLISM

This American Indian Youth Prevention Project concerning alcohol abuse and alcoholism was developed in concert with the staff of the American Indian Center of Baltimore, Maryland and this author. The staff from the beginning recognized the problem of alcohol abuse and alcoholism among their youth in the greater Baltimore area. The staff and this author formulated a series of goals, objectives, and daily operating tasks to guide a summer prevention project concerning alcohol abuse and alcoholism. A questionnaire was devised to provide ongoing evaluation of the progress of this project. This questionnaire tapped knowledge about alcohol, alcohol abuse, and alcoholism and also measured attitudes of self worth. The questionnaire was administered to these youth at the beginning and conclusion of the project, thus constituting a pre-test and post-test enabling the evaluation of this alcohol abuse and alcoholism prevention project. This project took place in the American Indian Center in Baltimore, Maryland from June through August, 1979.

All concerned -- the youth, the staff, and this author -- concluded that the problem of the abuse of alcohol cannot be overstated, since alcohol, unlike most drugs is rarely understood to be a drug. No other drug is as socially acceptable, widely used, and completely misunderstood as alcohol. For example, alcohol is thought of as a stimulant, although in fact it is a depressant. Both American Indian and non-Indian youth did not invent the idea of drinking, they learned it. The "why" and "how" should come as no surprise -- America is a drinking society (see Appendix J , concerning American drinking practices).

The first Alcohol and Health Report of the federal government estimated the rate of alcoholism among American Indians to be at least several times the national average. The "drunken Indian" stereotype is both unfair and self-defeating, but the magnitude of the problem is undeniable. Alcohol is a factor in 75% of American Indian deaths and 80% of their suicides. Alcohol problems are not distributed uniformly throughout the American Indian populations, but vary, sometimes drastically from tribe to tribe. The problem of the abuse of alcohol and alcoholism becomes concrete, real and personally meaningful after these American Indian youth listened to a series of lectures, saw filmstrips, had counseling and peer discussions, and individual learning situations.

It was decided by the staff of the American Indian Center, and this author that alcohol abuse and alcoholism prevention should strive to make an acceptable change in individuals and to maintain appropriate drinking practices. This change was found in knowledge, self-worth, and the skills to communicate them, thus helping non-reservation American Indian youth to be more sure of themselves and to improve their self-image. The essential objectives of alcohol abuse and alcoholism prevention should share the aims of all education, particularly that of developing well adjusted human beings.

This project stressed prevention within this community reduced the stigma of alcoholism, and created a climate where young American Indians could feel free to seek help and assistance.

As has been stated earlier, making contact with as many facets of the American Indian youth lives as possible is an effective means for reinforcing positive messages about drinking attitudes and behavior. The community includes the American Indian Center in Baltimore, Maryland, the families, the peers, the schools, the churches, and others including the police and social services agencies. It is most important to have everyone acknowledge their feelings concerning alcohol abuse and alcoholism. It is equally important to clarify their values in order that they can handle the many difficult decisions alcohol use presents. Since ethnic background, culture, and custom influence drinking behavior, the inclusion of culture, customs, and ethnic heritage must be a part of any prevention. In prevention both alcohol abuse and alcoholism must be dealt with. Failure to deal with both enables the youth to continue to separate alcohol abuse from the disease of alcoholism.

A COMPREHENSIVE MARYLAND STUDENT ALCOHOLISM PREVENTION PROJECT (CMSAPP)

Although the American Indian youth project that took place at the American Indian Center was effective, it showed the need for a continual community based project. This community based project is outlined in this chapter and is called a Comprehensive Maryland Student Alcoholism Prevention Project (CMSAPP). This project, to be managed by a state Task Force, would be made up of American Indian youth, non-American Indian youth, the American Indian Center in Baltimore, Maryland, the National Council on Alcoholism, the community, schools and other agencies.

The newly suggested project would include an American Indian summer youth program; however, the new project would be more encompassing. To begin, everyone involved would be required to examine his/her attitudes concerning drinking, alcohol abuse, and alcoholism, and his/her attitudes concerning drinking in relation to American Indian youth and non-American Indian youth (See Appendix K). Secondly, the goal of this project would be the creation of a three-year phased volunteer community based alcoholism prevention/education effort designed to address the needs of young people who are at high risk for developing alcoholism. This high risk population comprises: (1) American Indian youth and non-American Indian youth from alcoholic homes; (2) American

Indian youth and non-American Indian youth from rigidly abstinent homes; and (3) American Indian youth and non-American youth who live in an environment characterized by a high degree of visible alcoholism. The type of area which surrounds the American Indian Center in Baltimore, Maryland is where most of the American Indian youth who were in the summer youth project live. These neighborhoods are mixed: American Indian and non-American Indian. They attend public schools and colleges which are predominantely non-American Indians. The American Indian youth who are primarily Lumbee attend fundamentalist churches which stress the evils of alcoholism and alcohol abuse, and not the disease of alcoholism, which is treatable.

This new program has been designed to involve the entire community: the American Indian family, single parents, young adults, advisors and staff of the American Indian Center, American Indian leaders in Maryland and their non-American Indian counterparts. An all American Indian summer project is central to this program; nevertheless, information about American Indian attitudes and customs must be transmitted throughout the year to the larger community, both American Indian and non-American Indian. This is necessary if changes in non-American Indian attitudes toward American Indians are to occur. Involvement of American Indian youth and non-American Indians is crucial at all stages of program planning, implementation and evaluation.

Volunteers are an integral part of this project, and their importance cannot be over-estimated. The health field, in particular, has been outstanding in its use of volunteers; this is best exemplified by the American Red Cross. Alcoholism, because of the scarcity of funds, the stigma of the disease, and the widespread prevalence of the disease, has always had to rely on volunteers. Alcoholics Anonymous (AA) stands out as a "self-help" organization that depends on the "victims" of the disease to be the helpers. In fact, the National Council on Alcoholism extended the concept of AA to include the non-alcoholic, those cured-minded citizens for whom alcoholism is perceived as a public health problem of very serious dimensions. It is now number two in rank of major causes of deaths in the U.S.A.

Over half of the traffic accidents are alcohol related. Part of any student alcohol abuse and alcoholism prevention program must include a traffic safety curriculum. Appendix L includes a model traffic safety curriculum.

The National Council on Alcoholism has advocated the acceptance of alcoholism as a treatable disease and as a public health problem. Maryland is under-developed in regard to the voluntary movement, public information programs are a priority.

The National Council on Alcoholism believes that the voluntary sector can significantly contribute to the improved quality of services to the community which includes the American Indian and the non-American Indian. Volunteers can provide the impetus not only for better quality of service but also for increased service.

The central thrust of CMSAPP is the development of local task forces of young volunteers aged 14 - 21 drawn from the American Indian Community and non-American Indian Community of Maryland. These Student Alcoholism Prevention Task Forces will focus initially on the schools in their community, expanding their efforts to the larger community and the non-school youth population. Their tasks will be: (1) to educate their communities about the nature, special problems, and needs of high risk young people; (2) to urge other community leaders and legistators and governmental officials to support programs in prevention, early intervention and treatment tailored to the needs of high risk populations throughout the state; (3) to recruit additional volunteers; and (4) to work with school counselors and other guidance personnel and university officials to develop workships and peer counseling programs for youth from high risk groups.

It is expected that a large number of the Task Force members will be high risk youth, and some members of Alateen, AA, and Al-Anon, who already have some knowledge of the problem. These students can provide some basic information to Task Force members not from high risk groups. A two-day accredited training program on alcoholism will be offered to all Task Force leaders. Wherever possible, the recruitment and training will be coordinated with the alcohol education activities of area Departments of Education, State Alcoholism and Drug Abuse Programs and the National Council on Alcoholism, Project staff and volunteers, with the assistance of these agencies, will support the Task Force by developing materials such as data on high risk populations, a guide to resources for high risk gorups, and evaluation of the curricula used by the schools.

A Student Alcoholism Prevention Task Force will coordinate the activities of the local Task Forces with the assistance of the Project staff volunteers. The Task Force will include representation from high school and university administrators, teachers, youth, American Indian Center, community and other agencies.

The purpose of the Task Force is to recruit youth volunteers who will educate and recruit other youth. The development of the Task Force takes place through recruiting, training, and placing volunteers. This becomes a continuing and growing force in the targeted communities.

The primary purpose of this project is to destigmatize the disease of alcoholism and to educate the students and the community concerning alcohol abuse through a broad-range program of public information and education (See Appendix M). The chief vehicle to accomplish the major undertaking is a core of informed, active volunteers. CMSAPP has placed as number one priority the development of this core of volunteers. The motive underlying the primary goal -- to destignatize the disease -- is the belief that the scope of the problem is so severe that when the public is ready to grasp the nature of it -- without the morality that envelopes the disease now -- public responsibility to quality programs will follow. The public will then be able to accept the responsibility for alleviating this serious health problem.

The following pages list and explain the objectives of the program and an outline of specific plans for the formation and implementation of this program.

Objectives

The objectives stemming from this primary goal noted above are:

1. To provide a forum in the state. CMSAPP provides the common meeting ground for the diversity of views on alcoholism.

2. To encourage the development of voluntary organizations in local communities. These organizations can be the educational centers in the community. They should be a catalyst for positive action in the community to help destigmatize the disease of alcoholism and to help those who might abuse alcohol.

3. To establish continuous working relationships with organizations, agencies and citizens' groups (statewide, regional and local) for the coordination and exchange of information.

4. To provide technical assistance to health and health-related organizations in the development of citizen-sponsored programs.

5. To increase coordination efforts of other organizations involved in alcoholism by arranging regional and statewide conferences for the exchange of information.

6. To disseminate alcohol abuse and alcoholism information to local organizations.
7. To establish training programs for professionals and non-professionals statewide.

The proposed project intends to stress peer education within the school and community, to reduce the stigma of alcoholism, and to create a climate where high risk young people can feel free to seek help and assistance.

This proposed program, to be directed by CMSAPP is aimed at developing a primary prevention/community education program directed at high risk youngsters through development of Student Alcoholism Prevention Task Forces which will be composed of volunteers aged 14 - 21. The aim of the three-year Student Alcoholism Prevention Project is to establish task forces of young people in school districts and on college and university campuses in Maryland, whose focus will be the development of prevention and education programs targeted for young people from high risk environments.

Prevention is a process primarily designed to reduce the number of individuals whose alcohol-related behavior adversely affects their health and quality of life. Secondarily, a goal of prevention is to increase the likelihood that alcohol-consuming individuals will develop responsible drinking behaviors. Prevention incorporates specific techniques and strategies within the context of an overall plan directed toward specific outcomes. CMSAPP will utilize the following guidelines, developed by the National Council on Alcoholism, as a basis for the efforts of the Student Alcoholism Education Prevention Task Forces:

1. Prevention strategies may be aimed directly at alcoholism problems by seeking to affect the frequency and/or manner in which alcohol is consumed by discrete population groups. An example of this is the effort to reduce alcohol consumption by youth from alcoholic homes.

2. Direct strategies will aim at individuals who consume alcohol or who may do so at some future time.

3. Non-direct strategies will aim at the support system, individual or institution, which surrounds the current or potential alcohol abuser.

In primary prevention of alcoholism, as in any other disease, the central concern must be to assist the local community to articulate its prevention concerns and build toward their fruition. In this case, the local community may be a school or school district.

The goals and objectives of the project are based on these observations:

1. Peer education has a record of proven effectiveness in reaching young people with potential or actual alcohol problems.
2. The use of large numbers of volunteers is the only viable means of conducting a community prevention effort.
3. The more involved young people are in planning and conducting programs, the more informed they become, and the more likely local communities will be to provide adequate alcoholism programs.
4. When young poeple are involved, they should be qualified for their assignments and should be given whatever training they need to qualify.
5. Targeting a program toward high risk groups will reach those most in need of education and prevention efforts.

The Three-Year Plan

1. In the first year, to establish a State Youth Prevention Task Froce (composed of youth) as an Advisory Board to CMSAPP.

2. In the second year, to develop a sixteen-hour Youth Alcoholism Task Force training model, curriculum and plan in cooperation with the Maryland State Department of Education including information relative to alcohol abuse and alcoholism (refer to Appendix N for tentative training outline and Appendix O for training materials).
3. In the third year, to design, implement and evaluate a Student Alcoholism Prevention Project.

Program Plan

Specific plans for accomplishing these goals and objectives are:

1. The use of peer education in alcoholism prevention has a well-established and proven record of effectiveness in reaching young people. CMSAPP intends to apply this concept to a statewide effort to organize and train youth-led task forces to reach high risk populations of young people.
2. Selection of high schools and universities will be the communities in which youth task forces will be developed.

This proposed program plan for the three-year Student Alcoholism Prevention Project will encompass the following activities:

1. Needs Assessment Study

   As an initial step, data concerning the extent of the problem of high risk populations in Maryland and the resources available to them must be gathered and updated. Currently, only the most general estimates can be made of the number of young people from the three high risk populations addressed by the project. Therefore, a needs assessment study will be undertaken by the project staff and volunteers.

2. Directory of Resources

   In order to prepare for the development of the Student Task forces and to provide material for public information, a directory of resources for high risk children will be developed.

3. Evaluation of Curriculum

   To enhance awareness of the needs and characteristics of high risk school and college-age youth, an evaluation of the State Department of Education curriculum will be conducted.

4. Task Force Procedures

   The procedures below will be followed in establishing the Student Alcoholism Prevention Task Forces. The time-table for these procedures is described in a subsequent section.

   Statewide conferences will be held to get maximum support for the school-based task force. Conferences will be held with high school personnel, parents, and students in cooperation with the State Department of Education's Alcohol Abuse Prevention Program.

   Liaison will be established with Alateen groups in the target communities to secure the participation of this population. From these conferences and contacts, a State Youth Task Force on Alcoholism

Prevention will be established which, with the assistance of the Project's Director, will initiate a series of meetings in school districts and college campuses to recruit and select members of the local Youth Alcoholism Prevention Task Forces. Regional two-day training sessions will be held for leaders of each local Task Force. The context of the training workshops will include the following elements:

a. General information on alcoholism, with an emphasis on possible genetic, psychological, and social influence which put certain children at risk for developing alcoholism.

b. Specific information on high risk populations in Maryland, including parents' roles as models of drinking behavior.

c. Use of community organization and community resources, including Alateen.

d. Leadership and peer education training.

e. Other relevant aspects of the training program will include:

    (1) Development of a Training Manual which can be utilized in similar programs.

(2) Offering college credit for the training program. This will help to attract volunteers and will give greater credibility to the activities of the Task Forces.

(3) Use of the Department of Education personnel as consultants in all training programs.

(a) With the assistance of the Project's Director, the local Youth Alcoholism Prevention Task Forces will pursue the activities outlined on page . Overall coordination will be provided by the State Youth Task Force which will have representation from the Mental Health regions of Maryland and will serve as an Advisory Board to CMSAPP. Local Task Forces will meet quarterly with the Project's Director for ongoing consultation and support.

(b) The staff will also work with established American Indian organizations in Maryland to investigate the possiblity of establishing a special Student Task Force for this population.

Potential Barriers to Project Implementation

1. Peer or parental pressure against participation in the project.

   Students, electing to participate in the project, particularly at the high school level, may encounter negative pressure from their peers. The project will overcome this potential problem by:

   a. Making the project attractive and interesting by stressing the development of practical leadership skills; and

   b. Seeking to enlist the aid of students who are viewed as leaders by their peers.

   Parental pressure may be brought against participants in the project, particularly from parents who fear exposure of their own problems with alcohol. Great care must be taken to insure that young people who elect to identify themselves as children of alcoholics or rigidly temperate homes do so with the understanding of their parents' needs and concerns. The educational activities carried out by the project must also stress that high risk young people seeking help will be insured confidentiality.

2. Reluctance of young people to invest time in the project.

   Many students may be reluctant to devote after-class hours to this type of activity. One method the project will use to overcome this problem is to offer credit for the training young volunteers will receive and to stress the practical value of acquiring these skills. Hopefully, students will be excused from school to participate in the training program. As much as possible, the activities of the task forces will be carried out during school hours,

3. Potential reluctance of public school administrators and teachers to give real support to youth-led task forces.

   This problem can be overcome by utilizing State Department of Education training staff and meeting with school personnel and community leaders.

Work Plan and Timetables

First Year

The first step in planning will be to form an Advisory Board to the project. During this year, one statewide conference will be held with school personnel and student leaders; four district-wide conferences will be held with high school administrators, teachers, parents, and students. The purpose of these initial conferences will be to recruit volunteers (both youths and adults) who will lay the groundwork for the formation of local task forces in their schools.

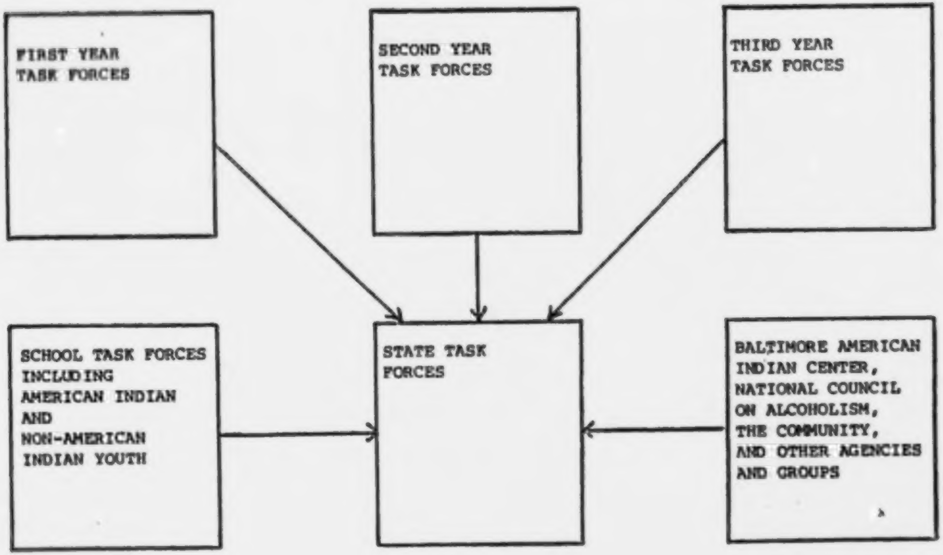
During this year of the project, Student Alcoholism Prevention Task Forces will be established in high schools and in three universities. From the outset, the success of the project will depend upon student involvement in all stages of planning and implementation.

Volunteers from the target high school districts will work with the Department of Education in setting up meetings in their schools. Each group will send a written report of their activities to the Project's Director by the beginning of the school year. Each group will also begin formation of a Speakers' Bureau, to be in operation by the end of the year.

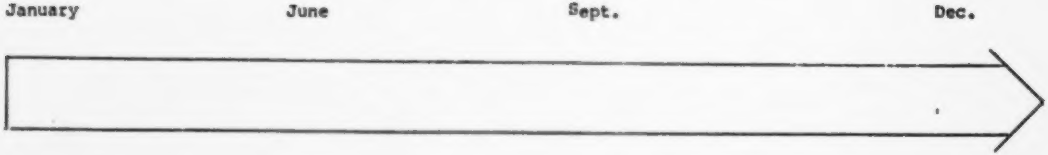
The Project's Director will initiate the needs assessment survey, resource guide, and curriculum evaluation (See Appendix P for the Project Director -- Job Description). These activities are to be completed by the beginning of the school year.

From September through December of the first year, Task Forces will be established in the four high school and three university communities. A two-day training program will be held at each participating institution for task force members. (The activities of the project are detailed in the charts on the following pages.)

CHART A: DEVELOPMENT OF STATE TASK FORCES


FIRST YEAR TASK FORCES
SECOND YEAR TASK FORCES
THIRD YEAR TASK FORCES
SCHOOL TASK FORCES INCLUDING AMERICAN INDIAN AND NON-AMERICAN INDIAN YOUTH
STATE TASK FORCES
BALTIMORE AMERICAN INDIAN CENTER, NATIONAL COUNCIL ON ALCOHOLISM, THE COMMUNITY, AND OTHER AGENCIES AND GROUPS

First Year



Statewide conference with University personnel and student leaders and BAIC*	Evaluation of school curriculum	Training of volunteers
	Data assessment	Local meetings organized by volunteers
Districtwide conferences of high school administrators, parents and students, and BAIC*	Develop resource guide	Reports on meetings from volunteers to advisory committees

FORMATION OF STUDENT TASK FORCES

CHART B

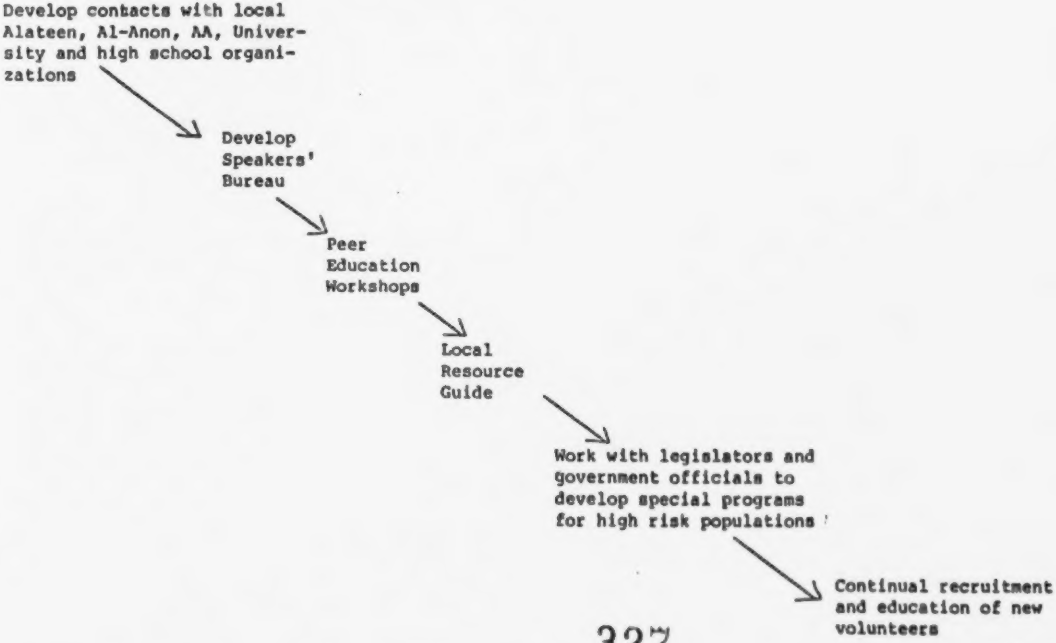
*BAIC, the Baltimore American Indian Center

Work Plan and Timetables

Second Year

During the second year, the pilot Task Forces will assume a full range of activities. The functions of the Task Forces are outlined below, and also appear in Chart C. Specific areas of activity will be developed locally by each Task Force following the priorities of that community. Each Task Force will be expected to:

1. Develop contacts with local Alateen groups and with young people who are members of Al-Anon or AA. Also contact all high school and university student organizations.
2. Develop a Speakers' Burear of leaders to educate members of their high school or college, and ultimately the larger community, about alcoholism and high risk populations.
3. Develop, with assistance of adult professionals, peer education workshops tailored specifically to the needs of high risk populations.
4. Develop a resource guide for local use of all available helping agencies for young people with alcohol problems.
5. Work with legislators and government officials to develop special programs for high risk populations.


Develop contacts with local Alateen, Al-Anon, AA, University and high school organizations
Develop Speakers' Bureau
Peer Education Workshops
Local Resource Guide
Work with legislators and government officials to develop special programs for high risk populations
Continual recruitment and education of new volunteers

TASK FORCE FUNCTIONS IN THE SECOND AND THRID YEARS

CHART C

6. Disseminate information developed by the Project staff.

Depending on the results of the first year's activities, new Task Forces will be established during the second year of the project in a number of high school or college communities. It is projected that, during the second year, Task Forces will be established at the remaining schools. In the establishment of new Task Forces, the Project will utilize the Speakers' Bureau and representatives of already established Task Forces.

During the second year, the Project Staff will hold quarterly meetings with the established Task Forces and will provide continued consultation and technical assistance. During these meetings, each Task Force will present an oral and written report on its progress during the previous quarter.

Work Plan and Timetables

Third Year

Project staff and Advisory Board will continue to provide consultation, monitoring, and technical assistance to establish Task Forces. During this year, two Task Force conferences will be held in the eastern and western areas of the state to provide additional training experience for the volunteers.

Experience of the first two years of the project will determine the number of new Task Forces which can be developed during the third year. By the beginning of the third year, it is estimated that the project will have a pool of volunteers to draw upon in reaching new communities.

Task Forces established during the first year of the project should have established a firm base of activity by the third year. This would include special education and outreach activities developed to suit the needs of their particular communities. The Task Forces will work closely with the local alcoholism council in their region.

Administration and Staffing

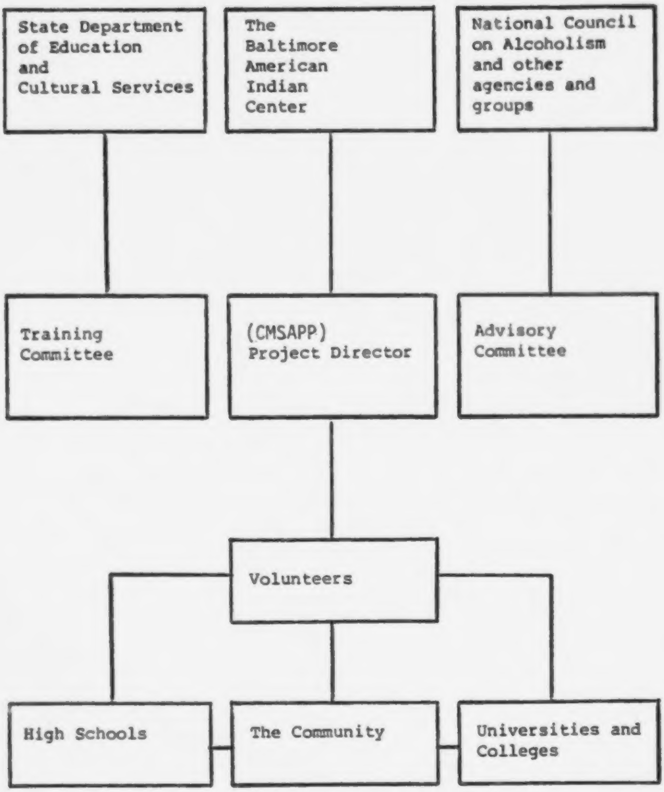
The Student Alcoholism Prevention Project will be managed and administered by CMSAPP. The project organization is detailed in Chart D, page .

The project will utilize the services of the State Department of Education consultants. These consultants will assume responsibility for: (a) helping to draft the final taining model and curriculum; (b) conducting regional training labs involving task force members; and (c) assisting in the design and implementation of the project evaluation process.

Project Evaluation

The Project's Director will cooperate and work closely with NIAAA and the NCA in the gathering and providing of data related to the project. Periodic self-assessment will occur as developed by the project staff.

CHART D: PROJECT ORGANIZATION


State Department of Education and Cultural Services
The Baltimore American Indian Center
National Council on Alcoholism and other agencies and groups
Training Committee
(CMSAPP) Project Director
Advisory Committee
Volunteers
High Schools
The Community
Universities and Colleges